# High Court Backs Michigan's Anti-Discrimination Statute

The Advertiser Montgomery, Ala. Tues 2-3-48

WASHINGTON, Feb. 2.—(AP)—A state law against racial discrimination applies even in foreign commerce if the traffic is basically local and there is no conflict with another country's rules, the Supreme Court held Monday.

The 7 to 2 decision upheld a $25 fine levied against the Bob-Lo Excursion Company of Detroit. It had refused passage to a Negro girl, Sarah Ray, on a steamer bound for Bois Blanc Island in the Canadian province of Ontario. The Advertiser

Justice Jackson filed a dissent in which Chief Justice Vinson joined. The dissent criticized the majority decision on the ground that it upheld application of state rules simply because the commerce "is not very foreign."

"It fails to lay down any standard by which we can judge when foreign commerce is foreign enough to become free of local regulation," Jackson wrote.

Justice Rutledge, for the majority, pointed out that the Bob-Lo ships operate only to Bois Blanc and return and that there is no regular communication between the island and the rest of Canada except by way of Detroit. Montgomery, Ala.

For practical purposes, he said, the island is "an amusement adjunct of the city of Detroit."

Rutledge said there was no inconsistency between the Michigan law and U. S. federal policy or between Michigan law and any rules Canada is likely to make. Tues. 2-3-48

The high court in other decisions handed down Monday:

1. Agreed to pass on deportation orders against 129 Germans held as enemy aliens. James J. Laughlin, Washington attorney for the Germans, contended that "since the war, for all intent and purposes, is at an end, there is no lawful authority for removing these persons."

2. Reversed, by a 5 to 4 vote, the narcotics law conviction of Anne Johnson, operator of the Europe Hotel in Seattle, Wash., in whose room federal agents found some opium.

The agents searched the room without a warrant, the record showed. They said they had a tip someone was smoking opium in the hotel and were led to the room by their sense of smell.

Justice Jackson for the majority commented that "the government is obliged to justify the arrest by the search and at the same time to justify the search by the arrest. This will not do."

3. Ruled unanimously that deportation of an alien, on the ground of two convictions for crime, requires an actual "repeat" violation—that is, a new crime committed after conviction of a first offense. Four circuit courts of appeals have taken as many different views of what the law means. One—the ninth at San Francisco—had held in the case decided Monday that any conviction for more than one felony even if at a single trial with sentences running concurrently, satisfies the statute's requirement for deportation causes. Tues 2-3-48

The supreme court ruling Monday blocked deportation of Fong Haw Tan, a native of China, convicted at one trial of murdering two Chinese in Fresno, Calif.

## Negro Teacher Wins Ruling in Alabama

Daily Worker, New York, N.Y. Tues 2-19-48

MONTGOMERY, Ala., Jan. 18 (UP).—The Alabama Supreme Court has reversed a Jefferson County (Birmingham) Circuit Court ruling that denied a Negro school teacher a writ of mandamus in her petition that she was fired in violation of her civil rights.

Ruby Gainer, of Birmingham, had filed contempt proceedings in federal court February, 1947, enjoining the Jefferson County Board of Education from salary discrimination because of race or color. Her contract to teach was cancelled on June 3, 1947. Mon. 1-19-48

## Term for Killing Negro Upheld In Arkansas

The Courier Journal Louisville, Ky.

Little Rock, Ark., May 31 (AP)—A 21-year sentence for a white man charged with killing a Negro was affirmed today by the Arkansas Supreme Court.

The defendant, Walter Montague, Jonesboro operator of a moving company, was convicted of second-degree murder for the fatal shooting last September 21 of Ralph Donaldson, 28. Tues.

The Supreme Court ruled 4-2 that no reversible error was apparent in the transcript of the lower-court trial. 6-1-48

# Supreme Court Upholds Mich. Civil Rights Law

Daily World, N.Y. Atlanta, Ga. Tues 2-3-48

WASHINGTON, D. C.— (NNPA)—The United States Supreme Court last Monday upheld the applicability of the Michigan civil rights law to foreign commerce in the case of the Bob-Lo Excursion Company which operates steamers between Detroit and Bois Blanc Island, Ontario, Canada.

The high tribunal split, 7 to 2. Justice Wiley Rutledge delivered the majority opinion. Justice William O. Douglas wrote a separate concurring opinion in which Justice Hugo Black joined. Justice Robert H. Jackson dissented. Chief Justice Fred M. Vinson concurred in the dissenting opinion.

Conceding that the Bob-Lo Excursion Company was engaged in foreign commerce, the court held that the commerce clause of th Federal Constitution does not forbid application of the Michigan civil rights law to sustain the company's conviction for refusing to transport Miss Sarah Elizabeth Ray from Detroit to Bois Blanc Island, commonly called Bob-Lo. Daily Worker

Justice Rutledge said the company's business was of "highly local concern" and "the island is economically and socially, though not politically, an amusement adjunct of the city of Detroit."

**STATE JUSTIFIED** Atlanta, Ga.

"I therefore in any case a state may regulate foreign commerce, the facts here would seem clearly to justify Michigan's application of her civil rights act,". the majority opinion said, adding: Tues. 2-3-48

"It is far too late to maintain that the states possess no regulatory powers over such commerce. From the first meeting of Congress they have regulated important phases of both foreign and interstate commerce, particularly in relation to transportation by water, with Congress' express consent."

Dicounting the contention that the Bob-Lo case was controlled by the decisions in Hall vs DeCuirt and Morgan vs Virginia, the court said the regulation of traffic along the Mississippi River, such as the Hall case comprehended, and of interstate motor carriage of psasengers like that in the Morgan case, "are not factually comparable to the regulation of appellant's highly localized business, and those decisions are not relevant here." Tues. 2-3-48

"It is difficult to imagine what national interest or policy, whether of securing uniformity in regulating commerce, affecting relations with foreign nations, or otherwise, could reasonably be found to be adversely affected by applying Michigan's statute to these facts or to outweigh her interest in doing so. Daily World

**STRANGE INFERENCE** Atlanta, Ga.

"Certainly there is no national interest which overrides the interest of Michigan to forbid the type of discrimination practiced here. And in view of these facts the ruling would be strange indeed to come from this Court, that Michigan could not apply her long-settled policy against racial and creedal discrimination to this segment of foreign commerce, so peculiarly and almost exclusively affecting her people and institutions."

The Supreme Court of Michigan concluded "that holding the provisions of the Michigan statute effective and applicable in the instant case results only in this, defendant will be required in operating its ships as 'public conveyances' to accept as passengers persons of the Negro race indiscriminately with others. Our review of this record does not disclose that such a requirement will impose any undue burden on defendant in its business in foreign commerce."

In his concurring opinion, Justice Douglas said he did not see "how approval of Michigans' law in any way interferes with the uniformity essential for the movement of vehicles in commerce. The only unformity is uniformity in the Michigan pattern." Daily World

Justice Jackson, with whom Chief Vinson agreed, said the concession of the majority that the commerce involved is foreign commerce is sufficient "to prevent a state from controlling what may, or what must, move in the stream of that commerce." Atlanta, Ga.

**FINED BY COURT**

The Bob-Lo Company was fined $25 in the Recorder's court in Detroit for violation of the Michigan civil rights law. The company appealed. The Michigan Supreme Court upheld the conviction, and the United States granted a review.

The policy of the company was to exclude colored persons and disorderly persons from its streamers. Miss Ray, an employee of the Detroit Ordnance District and forty white girls, who were her classmates in Commerce High School in Detroit, planned a trip to Bob-Lo Island on June 21, 1945, under the sponsorship of the Ordnance District which conducted a class in that school. Thurs. 2-5-48

On the morning of June 21, 1945 thirteen girls showed up at the Detroit dock of the company. One of the girls, Phillis Walton, bought the ticket for the entire group. The girls surrended their tickets, passed through the gate, boarded the boat, checked their coats, and went on the top deck of the steamer Columbia to sit down.

Shortly afterwards, the assistant general manager of the company and the boat's steward approached the group and told the girls Miss Ray could not go along with them because she was colored. 2-5-48

When Miss Ray protested to her teacher that discrimination was being practiced against her, the two men got angry and told her she would have to get off the boat. One of the men then called three white waiters and told them to "throw this woman off." Daily World

The men closed in on her, and Miss Ray told them she would leave the boat. Atlanta Ga.

# Virginia Court OKs Supreme Court Ruling

New York Daily Mirror Tues 3-2-48

By Associated Press

RICHMOND

The Virginia Supreme Court of Appeals has ruled, in effect, that a state disorderly conduct law cannot be used to maintain racial segregation on buses.

In a unanimous opinion, the court reversed a Circuit Court and dismissed the case against Mrs. Lottie E. Taylor who appealed a $5 disorderly conduct fine.

Mrs. Taylor boarded a bus in Washington on Sept. 12, 1946, bound for Brightwood, Va. The bus operator asked her to move to a seat at the rear of the vehicle. She refused, and evidence was that her refusal was not accompanied by any loud talking or other breach of the peace. Tues 3-2-48

The U. S. Supreme Court has held that state segregation laws do not apply to interstate bues.

## 3D MISSISSIPPI TRIAL GIVEN DOOMED NEGRO

New York Daily Mirror

JACKSON, Miss., Feb. 9 (AP)—The Mississippi Supreme Court today quashed an indictment of a Negro sentenced to die for raping a white woman. It held his constitutional rights had been violated when Negroes were excluded from the grand and petit juries.

In a 4-to-2 decision the court remanded to Forrest Circuit Court the case of Willie McGee, Negro twice convicted for raping a prominent white woman of Laurel.

The court cited the recent United States Supreme Court decision in the case of Eddie (Buster) Patton, Negro convicted of murdering a white man. In that case the Federal jurists held Patton was entitled to a new trial because Negroes were excluded from the jury.

McGee appealed and won a new trial from the State Supreme Court decision in high feeling in Laurel he was convicted in the Jones County Circuit Court and sentenced to die. He appealed this case to the Mississippi. Because of rest County and it was from this conviction that he appealed this time.

## Segregation In Court Ruled Not Prejudicial

Jackson Miss. State Times 2-11-48

The Mississippi Supreme Court held in Forrest County Circuit Court should have granted a change of venue.

McGee's first trial created great

# To Defendant's Rights

Jur. 1-13-48

JACKSON, Miss., Jan. 13—(AP)—The Mississippi Supreme Court ruled yesterday that the segregation of Negroes from white persons at a Negro's trial for murder cannot be construed as a denial of the defendant's constitutional rights.

Attorneys for Marvin Murray, sentenced to death for the slaying of an elderly jailer, put fourth objections to the courtroom seating arrangements whereby Negroes were required to be seated in the balcony, as one of a group of suggested errors in the Supreme Court's affirmation of the death penalty. Jur. 1-13-48

In overruling the suggestions of error, the court commented:

"It is asserted that the seating arrangement, suggested pursuant to a custom whose immemorial usage and sanction has made routine, resulted in a concentration in the balcony of those of the same race as the defendant. Jurs. 1-13-48

"Assuming that this seating arrangement was insisted upon and deemed prejudicial to such as were piqued thereby—as to which there is no showing—such reactions may not be magnified into a fancied denial of constitutional rights and thereupon made assignable to the defendant." The News

Murray is scheduled to die in the electric chair Jan. 30 for the slaying of E. M. Reynolds, who was found fatally beaten in the jail at Wiggins on Sept. 13, 1946.

Murray contended that Reynolds kicked him and that he then struck the jailer with his fists. A piece of pipe was found near the wounded jailer.

# The Courts and the People

The Worker, New York

"THE courts follow the election returns." Mr. Dooley's well known witticism merely expresses the truth that all vital court decisions are written, in the last analysis, by forces outside their quiet precincts.

Jurs. 1-20-48

On Thursday, the U.S. Supreme Court said that a Negro student, Ada Lois Sipuel, in Oklahoma, must have the right to study in the state university. That was fine. But on Friday, the Oklahoma courts found a big, wide loophole in the Supreme Court's opinion through which they could bring the Jimcrow system right back. The Negro student will probably have a long wait before she gets what the Supreme Court said she ought to get. Jurs

**Popular movements fighting for democracy must, of course, make use of the courts in their fight. But if they thereby forget to organize powerful mass movements of protest, the courts will pay little attention to them. The Oklahoma Supreme Court gave another proof of that this week.**

# Assault Case Confession Held Illegal

The Advertiser, Montgomery, Ala. Fri. 3-5-48

## Convection Of Negro, Wounded By Mob, Is Reversed

The conviction of a Negro shot by a mob after he was jailed for the criminal assault of a white woman was reversed Thursday by the State's highest tribunal.

The Supreme Court ruled a confession which helped convict Robert E. Huntley, 28, was obtained improperly. Other evidence, the court said, was "wholly circumstantial" and Huntley was not positively identified as the rapist.

**Saved By Patrol**

Jailed for the assault of a white woman near Pell City last April 30, the Negro was slightly wounded by shots from a mob which gathered at the jail, records showed. The state Patrol succeeded in transferring him to a Birmingham jail for safe-keeping.

Chief Justice Lucien D. Gardner wrote the unanimous decision which centered around the confession signed by Huntley in a Birmingham jail.

The court said that Patrolman R. F. White, of Birmingham "by his method of approach . . . gained the defendant's confidence and made him feel that in him he had a real friend, someone to whom he could look in the hour of danger."

Fri. 3-5-48

Huntley contended the officer led him to believe he might get a lighter sentence if he "told everything." White denied he made any promise or offered any inducement to get the confession signed. The Advertiser

The tribunal ruled the confession was improperly admitted in evidence at the St. Clair County Circuit Court trial.

In another case, the court upheld the death sentence of James Shaver, Montgomery Negro convicted of killing Negro Tony Peterson. Shaver's electrocution date was set for May 7. Court records described Peterson as an old "recluse and miser" with a "lot of old greasy money."

# KEEP YOUR TEMPER OR LOSE YOUR RIGHTS

THE Virginia Supreme Court recently ruled in effect that a state disorderly conduct law cannot be used to maintain racial segregation on a bus.

The opinion was unanimous and reversed the Fairfax County Circuit Court, which ruled against Mrs. Lottie E. Taylor vs. the Commonwealth. Christian Index

Mrs. Taylor, a colored woman, boarded a bus in Washington, D. C. bound for Madison, Va. She refused to move to the rear because she was an inter-state passenger. She was arrested and fined five dollars and cost for "disorderly conduct." Jackson, Tenn.

Mrs. Taylor produced evidence that she did not do any loud talking, nor become abusive, nor anything else which would breach the peace. It was the opposite. She simply remained calm, respectful but determined to test her rights by refusing to move. It took the high court to render a favorable decision. But she won, and her race won. It pays to learn and know your rights. It is helpful to lose one's fears. But unless we can keep our temper we may lose our rights. Thurs. 4-8-48

# St. Louis Housing Pact Ruled Unlawful By Mo. Supreme Court

Fri. 6-18-48

In a decision handed down Monday, June 14, the Supreme Court of Missouri, following the decision in Shelley vs. Kraemer, affirmed a decision of the Circuit Court of the City of St. Lous holding a restrictive covenant which covered the property in the block bounded by Lexington, Paris, Newstead and Natural Bridge avenue invalid. The decision in the Circuit Court was rendered by Judge Eugene J. Sartorius in favor of Mr. and Mrs. Jacob Clarke, who had bought and were occupying the property at 3601 N. Newstead avenue. The suit against them was brought by Joseph Woytus and wife, who were supported by Marcus Improvement Association, an organization composed of white persons whose avowed purpose it is to prevent colored persons from owning or occupying property in the northwest section of St. Louis covering about three and a half square miles of the city, including the Labadie avenue property which was involved in the case of Shelley vs Kraemer, decided by the Supreme Court of the United States May 3, and in which the enforcement of restrictive agreements based on color was held to be forbidden by the Fourteenth Amendment to the Constitution.

Mr. and Mrs. Clarke were represented by Attorneys Geo. L. Vaughn and David M. Grant.

## Barber Freed In Court Of Race Discrimination

ANN ARBOR, Mich., March 6. —(AP)—A municipal court jury Saturday acquitted barber Dominic Dascola of a charge of racial discrimination for failing to cut a prospective patron's hair.

The complaint was brought under a state civil rights statute by William G. Grier, Negro medical student at the University of Michigan. Grier said Dascola refused him a haircut last December 11.

The five men and one woman on the jury found in favor of the barber after deliberating 90 minutes. Dascola denied that he had refused the haircut, explaining he lacked proper equipment at the time. 3-7-48

## Negro Policemen Upheld In Arrest

Warrants charging two Negro policemen with assault and battery obtained by another Negro they had arrested on a charge of drunkenness were dismissed yesterday in Fulton Civil Court by Judge Ralph McClelland.

Willie J. Purdue, the complainant, of 64 Butler St., S. E., charged the Negro patrolmen, John W. Saunders, Jr., and Willard Strickland knocked him down and beat him when he protested he was sober. The patrolmen said Purdue was drunk and resisting arrest. Purdue's landlady, Mamie Boatright, backed their contention.

## NEGRO VET SENDS THANKS FROM A MISS. DEATH HOUSE

*Reprinted from late edition of The Worker*

Willie McGee, Negro veteran facing death in a Mississippi jail, has written to the Civil Rights Congress here thanking the organization for its efforts to win his release. The CRC is now appealing to the Mississippi Supreme Court for the third time to set aside the death sentences of lower courts.

The CRC has made an appeal for funds to help win McGee's freedom. It has asked that contributions be mailed to the CRC national office, 205 E. 42 St., New York, 17.

In a letter to Joseph Cadden CRC executive director, McGee wrote, "I answer your letter I received with the prisoner relief fund check. I don't know what to say, but for one thing, I really appreciate it and hope some day to meet some of the many friends who have done so much for me."

McGee is now being held in a county jail in Jackson, Miss. Civil Rights Congress attorneys are asking for his unconditional release on the ground that McGee can not get a fair trial in Mississippi and that his three convictions for the same crime constitute multiple jeopardy.

Mrs. Bessie McGee, mother of Willie, is now in New York speaking at CRC and other meetings to raise funds for the appeal. She will tour New Jersey and Pennsylvania during May.

## Public Golf Links Can't Bar Negroes

BALTIMORE — Negroes are entitled to play on all public golf courses in Baltimore, a Federal Court judge ruled today.

Judge W. Calvin Chesnut filed his opinion that "so long as the city furnishes golfing facilities, the quality must be substantially equivalent for both races."

He decided that the Carroll Park nine-hole course, hitherto reserved for Negroes, was not on a par with with the three other municipal courses.

The suit was brought by Negro golfer Charles R. Law after he was refused permission to play the Mount Pleasant course.

Judge Chesnut held that Mr. Law was entitled to use of courses that have been restricted to whites since the Carroll Park links were set up for Negro play, but added that he would not direct how city officials were to meet the situation.

Passing on the comparative features of the four courses, the court pointed out that golf is "a unique game" which is "made or marred by more collateral and possibly esthetic conditions" than other sports.

Judge Chesnut sugested some alternatives to opening the courses for completely unrestricted use. Because of the comparative- days could be set aside for play ers in relation to white golfers, the judge said certain times or days cout be set aside for play by Negro golfers.

## Tightens Up On Decree Against Railroad Jobs Discrimination

The fight of St. Louis-San Francisco (Frisco) railroad Co., Negro employes achieved new gains last week. Circuit Judge Harry F. Russell increased the scope of a temporary injunction restraining the railroad form alleged acts of discrimination against them.

The amended injunction prohibits the company from taking job functions or employment opportunities away from Negroes and re-assigning the same functions to white persons. Originally, the injunction restrained the railroad only from replacing the Negro brakesmen with white workers.

The new order is also understood to prohibit the company from refusing to hire, or use, qualified Negroes to fill vacancies as baggagemen or baggagemen-brakesmen, irrespectiv of organization affiliations.

Through Atty. Henry Espy, the plaintiffs, J. V. Bagley and Cleveland Tillman, charged that they are classified as trained porters, although they perform the duties of head-end brakesmen. It is charged the Brotherhood of Railway Trainmen, which organization bars them, wants to replace the with whites. Several hundred workers would be affected on the railroad if the injunction were lifted.

## Eureka Grand Lodge Winner In Injunction Battle

TULSA, Okla. — District Judge John Ladner denied an injunction against the Eureka York Rite Grand Lodge of Free and Accepted Masons here last week after listening to five days of testimony and reviewing ancient documents brought in by witnesses.

Plaintiff in the case was the Prince Hall Grand Lodge, of which Attorney Amos T. Hall is grand master. The petition sought to enjoin the defendants from using insignia, emblems, and holding themselves up as masons. Attorney Harry E. Davis, of Cleveland, O., author, lecturer and an authority on Masonry among Negroes, was brought here as chief witness for the Prince Hall Grand Lodge.

W. L. Turner, national grand master of the York Rite Masons, author of "The York Rite," lecturer and minister, of Birmingham, Ala., was the rebuttal witness. W. L. Davis, grand master, B. C. Hodges, grand secretary, both of Philadelphia, and R. J. Simmons, national grand secretary, of iBrmingham, were also here for the defense.

The evidence presented to the court showed that the Eureka Masons started operating in the state in 1883, while the Prince Hall Masons did not come to life until 1892. The judge held that the Eureka Masons had priority but that he could not enjoin either grand lodge because each had been in operation more than thirty years, which under Oklahoma statutes legalized both.

"With the settlement of this controversy I plan to build Eureka Grand Lodge bigger and stronger in the state," declared Grand Master Pogue, Oklahoma City, in discussing the court decision. "There is no question but that this signal victory will put new life in our entire membership, and I predict that Eureka membership will double in the next five years," Pogue continued.

## White Primary Illegal—

RICHMOND, Va.—South Carolina's "private club" white primary designed to bar Negroes from voting, was declared illegal here recently by the U. S. Circuit Court of Appeals for the fourth circuit in an opinion affirming a similar ruling by a lower U. S. court in South Carolina, handed down last July 12.

DEMOCRATIC PARTY LEADERS IN SOUTH CAROLINA HAD CONTENDED IN THEIR ARGUMENT TO THE COURT THAT NEGROES HAVE "NO MORE RIGHT TO VOTE IN THE DEMOCRATIC PRIMARY . . . THAN TO VOTE IN THE ELECTION OF THE OFFICERS OF THE FOREST LAKE COUNTRY CLUB." THIS ARGUMENT WAS BLASTED.

# Court Upholds Segregation Law But Frees Birmingham Defendants

The Worker
Sun. 6-27-48

By Mary Southard

BIRMINGHAM.—Jimcrow took a beating in this Big Steel town on June 11, when four persons charged with violating the city's segregation ordinance were found "not guilty" by Judge Oliver Hall in city police court.

These four persons had been arrested on May 1 while attending the Southern Negro Youth Congress meeting in the Gospel Tabernacle in the midst of a brutal campaign of terror and intimidation against the SNYC and its leadership.

They were the Rev. Herbert Oliver, courageous young Negro minister, who had given his church for the meeting; Dr. James Dombrowski, director of the Southern Conference Educational Fund; Mrs. Doris Sank Block of the World Youth Federation, all speakers; and Eddie Forrey, white NMU delegate from Mobile.

The police department (and all the white supremacy elements in Alabama political life back of it) which had so arrogantly invaded the peaceful assembly and arrested the four defendants, and later the same day arrested Senator Glen Taylor, were on the defensive in the hot night court room in city hall where the trial took place.

★

**IN SPITE OF THE FACT** that the city attorney and the three police witnesses made every effort to show that the fantastically involved segregation ordinance had been violated, the judge chose to issue a verdict of "not guilty" rather than test the constitutionality of the segregation ordinance in higher courts.

Counsel for the defendants Thomas Johnson of Macon, Georgia, made an hour long argument for dismissal of the case on the grounds that the constitutional rights of freedom of speech, freedom of assembly and freedom of religious worship were violated by the city segregation ordinance and its carrying out by the police. He was assisted by Arthur Shoes, leading Alabama Negro attorney, and Robert Trawick, white Birmingham lawyer, with Emmanuel Block of the Civil Rights Congress as consultant.

★

**MR. JOHNSON**, citing numerou decisions of the U.S. Supreme Court, argued that police power must not be used as a cloak for invasion of civil rights, and that the very effort to say how people shall assemble, as in a segregation ordinance, is a violation of such rights. The ordinance, he said, was directed toward preventing the free association of white and Negro citizens in peaceful assembly to petition for redress of grievances.

**"By this very ordinance we are attempting to substantiate the evil theory of an inferior and a superior race," he continued, "a Hitler theory, which we have just fought a war to destroy. . . . What happens to these four people here will resound all over the world. If the United States is to assume moral leadership in the world and set an example, and help to avoid the destruction of a new war, then we in the South must learn to live together as brothers."**

6-27-48

★

**THE JUDGE** refused to dismiss the case, and the city went through a lengthy legal flimflam to show that the segregation ordinance was not violative of the first and 14th amendments and the Bill of Rights of the Alabama Constitution. Then the judge, after a tedious peroration in defense of white supremacy and segregation and Hitler, contradicted himself by pronouncing the defendants not guilty.

The judge, the police officers present, the whole courtroom had an air of schizophrenia when this sentence was pronounced. It was clear that they would have liked nothing better than to defend their whole system fo Jimcrow oppression of the people by meeting out a stiff sentence to those they charged with violating segregation. Yet the four defendants who had stood firm with the delegates and the leadership of the SNYC marched off without a sentence at all. The state power in Alabama, of which the Birmingham police are but a small and currently arrogantly vicious part, was afraid of having their whole sacred segregation ordinance declared unconstitutional.

★

**THIS VICTORY** over the oppressive segregation law takes place during a time when police killings of Negro citizens are shamefully being repeated, with 10 killings in the last two-month period. It takes place when police intimidation of all who have and are supporting the SNYC and the Wallace movement and other organizations which are fighting back, continues unabated.

Louis Burnham, SNYC executive secretary, interviewed after the trial, said: 6-27-48

"In the acquittal of the four defendants in the segregation cases in Birmingham's police court, the people of this city and the entire nation have won a great victory.

"Faced with the possibility of a direct test of the constitutionality of the local segregation ordinance, the authorities ran for cover. Their action is a tacit admission that the infamous Section 859 of the Birmingham code would probably not stand the test of legal review in the Supreme Court of the United States.

"It is clear that they must resort to extra-legal, extra-constitutional means to maintain the Jimcrow oppression of the Negro people of this state.

"The police department is now resorting to such means in a series of unprecedented killings of Negro citizens in the Birmingham area. The victory in the segregation cases proves that these brutal police homicides can be stopped."

# Sen. Taylor to Appeal Birmingham Sentence

Daily Worker 5-6-48

BIRMINGHAM, Ala., May 5 (UP).—Sen. Glen H. Taylor of Idaho said today he would appeal the ruling of Recorder's Court Judge Hall, who fined him $50 and ordered a 180-day suspended jail sentence on disorderly conduct charges here last night. 5-6-48

Taylor, vice presidential candidate on Henry A. Wallace's third party ticket, received the near-maximum sentence after he defied Birmingham's segregation laws at the Southern Negro Youth Congress last Saturday.

Judge Hall attacked "outside influences that work for social equality and a breakdown of racial barriers."

**"The sentence is of no consequence," Taylor said. "It was not unexpected, and I planned to appeal it anyway."**

The case probably will be appealed to Jefferson circuit court.

Nesbitt Elmore, Montgomery attorney, charged the trial was contrary to the provision of the 14th amendment and also contrary to the Supreme Court ruling on segregation handed down this week.

Associated with Elmore in the defense were Seymour Linfield, New York City, member of the National Committee of Youth for Wallace; George Traywick, of Birmingham, and Arthur Shores, Negro attorney

12a 1948

D. C.

# 'White' Court Demanded by Woman Here

Washington Post
Washington, D.C.

## Negro Judge Rescinds Contempt Penalty for Knife Case Defendant

A 40-year-old woman defendant was placed in contempt of Municipal Court yesterday when she demanded a "white judge, a white clerk and a white district attorney."

She is Mrs. Elizabeth C. Pearson of 4503 6th st., Arlington, Va. She was given a $10 fine or 10 days in jail, but the penalty was rescinded.

When she was being arraigned on a charge of assault with a knife, she repeatedly shouted her demand. Judge Armond Scott, the only Negro jurist on the bench here, said in disgust:

"I've been on the bench 13 years and this is the only time I've ever met an animal of that low type."

Later, however, he relented and rescinded the fine.

The judge continued the stabbing case against the woman for 30 days after she shouted that she was a "psychotic patient" and asked for treatment. Judge Scott recommended that the receive an examination at the District Jail.

Her bondsman, had surrendered her to the court because of her alleged failure to keep appointments with him. She had been under $1000 bond.

The clerk to whom she was referring was Alfred Scott, the judge's nephew. The prosecutor, Edward Carey, is white.

After she was declared in contempt the woman appeared hysterical. Judge Scott said she apparently had been drinking. When the proceedings were over, she said, "Thank you, your honor."

FOR THE FIRST TIME in Indiana history a Negro judge is presiding over a murder trial. Last week Judge Henry J. Richardson, Jr., was selected to sit at the trial of Eugene L. Jackson, accused of second-degree murder. 12a

The trial is being held in Marion County courthouse. The selection of Richardson was made by agreement with the prosecutor, the defense attorneys and the regular judge. Birmingham, Ala

# Negro Serves For First Time As Trial Judge In Indianapolis, Indiana

Memphis World

(12a) Jpea 3-2-48

INDIANAPOLIS, Indiana — History was made in this staid, Indiana Commercial Monday, February 16th, when the Second Degree murder trial of of Eugene L. Jackson opened in Marion Criminal Court Number 1 in Marion County Court House. For the first time in the history of Indiana, a Negro judge presided over a murder trial and jury.

Memphis Scimitar

Attorney Henry J. Richardson Jr., of Indianapolis, Indiana, former member of the Indiana General Assembly and former member of the Indiana State Board of Public Welfare, was selected on February 6, 1948, to presiden over the Jackson murder trial in place of the regular judge. Selection was made by agreement of the Prosecutor, Judson L. Stark, and the defense attorneys as well as the regular presiding judge.

Jpea 3-2-48

Judge Richardson is a graduate of Indiana University Law School and practiced law in Indiananoplis for attended Illnois University. He has twenty years. Judge Richardson has made an outstanding record in the practice of law, having been instrumental in setting several precedents in the law of the State of Indiana.

The young jurist became a member of the Indiana General Assembly in 1933 and served two terms. He was the first Negro to be elected to the assembly in Indiana in forty years. At the time of his election to the assembly, Judge Richardson was thirty years old. His service in the assembly is remembered by fellow-Indianans for his effort to "put teeth" in the Indiana Civil Rights Law. This measure was voted down by only eight votes. Mr Richardson was successful,, however, in getting amended the State Constitution, striking out the word "Negro".

Jpea 3-2-48

Mr. Richardson is an active civic leader in Indianapolis, and at present is spearheading the drive to wipe out segregation in the public schools of his city. He maintains law offices at 157 North Illinois street, Indianapolis, Indiana.

The Jackson murder trial brought crowds to each sesison. The defendant, Eugene L. Jackson, a high churchman of the A. M. E. Connection, and employed at the time of the alleged murder as Assistant Manager of the Lido Theatre won a new trial when the jury failed to come to a verdict. The jury was discharged, and a new trial ordered to begin in June. The defendant was represented by State Senator Robert Lee Brokenburr, and Attorney Willard B. Ransom. Prosecuttor George Kissler and Charles Clark represented the state.

12a 1948

Michigan

# Jury Okays Jimcrow in Michigan Town

Daily Worker
New York, N.Y.

ECORSE, Mich., July 13.—After admitting that he violated state law by refusing to serve Negroes, Bert Loveland, owner of the Loveland Pharmacy, was acquitted by an all-white jury in Justice Court here. Wed 7-14-48

The defendant when asked if he refused to serve the complaining witnesses because they were Negroes answered: "Yes." He also testified that they were orderly and there was no disturbanuce.

The complaining witnesses stayed in the store for two hours waiting to be served so that no one could say that the help was busy or that they didn't wait long enough. This gave Judge Salliottee an opportunity to urge Loveland to sign a complaint against the witnesses for "loitering."

The Judge's bias was further shown when he intimated that the idea of equality had something to do with Communism. In his charge to the jury, Judge Salliotte talked about race riots and his accomplishments in Ecorse in an attempt to justify Loveland's violation of the law.

The NAACP supporting the complaint got its share of abuse from the "impartial" judge. Without cause Judge Salliotte volunteered the information that he "was not interested in joining the NACCP."

Progressive citizens here are aroused by the prejudiced court and verdict and are determined to push the case further. 7-14-48

# New Court Order Prevents Railroad From Replacements

Daily World
Atlanta, Ga.
5-31-48
Wed.
7-21-48

ST. LOUIS (ANP)—Broadening the scope and increasing the authority of temporary injunction against railroad hiring practices issued by him in May, Circuit Judge Harry F. Russell last week declared that the St. Louis San Francisco Railroad company could not replace Negroes with white workers.

In his original order, the judge restrained the company from discriminating against Negro employes. The amended injunction also prevents the company from taking job opportunities or functions, then reassigning them to whites. At first this restriction applied in relation to having white brakemen replace colored brakemen.

**ON CLASSIFICATION**

The new order was issued after complaints of J. V. Bagley and Cleve and Tillman that they are classified as train porters although they do the work of a head end brakeman. They claimed that the railroad and the Brotherhood of Railway Trainmen had agreed that white brakemen would replace Negroes.

According to Victor Packman, attorney of the plaintiffs, the court order also changing the names of the job to one in which Negroes are excluded. In the future the company cannot refuse to hire qualified Negroes as baggagemen or baggamemen-brakemen no mater to what group they belonged.

# City Evaded Issue By Renting Facility To Veterans' Club

Courier
Pittsburgh, Pa.
12a

WARREN, Ohio, (ANP) — The city of Warren was ordered to allow Negroes the right to use the city's swimming pool in a court decision last week by Appellate Judge Joy Seth Hurd of Cleveland on assignment with the Cuyahofa County Appellate Court of Trumbull County.

The case originally arose in 1946 when, after some white citizens complained of swimming with Negroes, the city asked Negroes through the NAACP and the Urban League to accept segregated use of the pool, one day a week. The Negroes refused, and in 1947 the city rented the pool to a private group. Sat. 7-24-48

**SUIT FILED IN 1947**

The group, Veterans Swim Club, allowed members only to use the pool. Although many Negroes applied for membership, none were admitted. James Culver and a group of Negroes filed suit against the city for use of the pool in July, 1947.

The Trumbull County Common Pleas Court ruled against the colored plaintiffs who claimed that the lease to the veterans club was a ruse to keep Negroes out.

In his ruling Judge Hurd said, "We wish to emphasize that we are not here dealing with social questions involving race relationships, nor with the question of whether or not the city might suffer a loss because of the use of this pool by persons of the Negro race. Sat. 7-24-48

**CONSTITUTION CITED**

"If this is the price that must be paid for constitutional guarantees, the price is indeed small small enough. It is one thing to pay lip service to the Constitution, and another to abide by its specific provisions."

He ruled that the city cannot deny the plaintiffs the right of the pool at any time it is open to the public as long as it is the property of the city.

# Prince Hall Masons Jose Suit Agamst York Rite

TULSA, Okla. (ANP) — District Judge John Ladner denied an injunction against the Eureka York Rite Grand lodge of Free and Accepted Masons here this week after listening to five days of testimony and reviewing ancient documents brought in by witnesses.

Plaintiff in the case was the Prince Hall Grand lodge of which Att.y Amos T. Hall is grand master. The petition sought to enjoin the defendants from using insigna, emblems and holding themselves up as Masons. Att.y Harry E. Davis of Cleveland, author, lecturer and an authority on Masonry among Negroes, was brought here as chief witness for the Prince Hall Grand lodge.

W. L. Turner, national grand master of the York Rite Masons, author of "The York Rite," lecturer and minister, of Birmingham, was the rebuttal witness. W. L. Davis, grand master; B. C. Hodges, grande secretary, both of Philadelphia and R. J. Simmons, national grand secretary of Birmingham, were also here for the defense.

The suit was filled after W. S. Pogg, grand master of the Eureka lodge; Isaac James Holmes, and Andrew Fuller failed to carry out a written and signed agreement to merge with the Prince Hall after a "fact finding" trip to Boston in 1945 to search the records in an effort to determine just which of the two organizations was the direct descendent from the Prince Hall lodge.

Testimony brought out that the Eureka Grand lodge committee, Pogg, Holmes, and Fuller, agreed that the records showed the Prince Hall lodge is a direct descendant but failed to follow through with the merger. W. L. Davis and B. C. Hodges were sent to Boston by the national grand lodge at the time to be present at the findings of the committee. Att.y Hall and Atty. J. J. Bruce of Oklahoma City represented the local Prince Hall lodge on the trip.

The court room was filled with spectators, mostly Masons, throughout the five day hearing.

# NAACP'S GRADUATE PETITIONERS REJECTED BY DISTRICT COURT IN LONG-AWAITED DECISION

## Rejections Not A Denial Of Equal Protection Clause Of 14th Amendment, States District Court Opinion

## MRS. WILSON AND McLAURIN DENIALS WERE NOT ARBITRARY, ILLEGAL, READS MONDAY DECISION

NORMAN. — District Judge Justin Hinshaw in Monday August 2 court hearing at 2 p. m., formally denied admission of Mrs. Ada Lois Fisher to the University of Oklahoma law school and graduate school applications of Mrs. Mauderie Hancock-Wilson and Mr. G. W. McLaurin, all of Oklahoma City. The plaintiffs were represented by Amos T. Hall, NAACP resident attorney.

In relation to the law school application of Mrs. Fisher, Justice Hinshaw's opinion declared:

Ada Lois Sipuel, plaintiff v. Board of Regents of the University of Oklahoma et al. defendants, No. 14807. The court finds that under the evidence, the admitted allegations of fact and the applicable law in this case, respondents' action of January 29, 1948, in rejecting petitioner's application of January 26, 1948, for admission to the School of law of the University of Oklahoma as a regular first year law student was legal and proper and was not a denial of petitioner's rights under the equal protection clause of the Fourteenth Amendment of the Constitution of the United States for the reason that the State of Oklahoma had made available to petitioner at the school of Law of Langston University a course of instruction for first year law students which offered advantages for legal education substantially equal to the advantages for legal education offered to white students in the course of instruction for first year law students at the school of law of the University of Oklahoma, and that hence petitioner's motion to this court herein should be denied. Judgement for respondents as per journal entry.

The Cleveland county district judge also rendered a decision on the mandamus action filed by the NAACP for admission of Mrs. Mauderie Hancock-Wilson, and Mr. G. W. McLaurin to the graduate school of Social Work and the doctorate degree in School Administration. The opinion was rendered in behalf of the respondents, the state of Oklahoma.

Atty. Hall requested a new trial, which was denied. Immediate notice of appeal to the state supreme court was given by the NAACP attorney.

Should the NAACP attorneys receive an unfavorable decision in the state supreme court hearing, the case will be returned to the United States supreme court.

The NAACP-Fisher case has been in litigation nearly three years, dating back to Mrs. Fisher's original application in January 1946 for entrance into first year law classes at the University of Oklahoma.

Mrs. Fisher's application was subsequently denied by the same Cleveland county district court judge whose opinion was pronounced Monday, and the state supreme court later upheld the lower court.

Atty. Hall, NAACP resident attorney, was joined by members of the national legal staff, including Atty. Thurgood Marshall and the case went before the United States Supreme court, which rendered a sweeping decision ordering the state of Oklahoma to admit forthwith the applicant (Mrs. Fisher) as soon as it does any other applicant.

The court did not specify how the state of Oklahoma was to comply with the decision, reversing the state courts, but the state overnight tacked up "Law School" signs at the state capitol library and announced opening of the law school of the then unaccredited Langston university.

Mrs. Fisher rejected the makeshift law school and again went into court declaring it to be decidedly inferior in opposition to the state's contention that the over-night school was "substantially equal."

This pleading involved a mandamus filed by the NAACP in the Cleveland county district court and heard on May 24.

Attorneys Thurgood Marshall, Amos T. Hall, James M. Nabrit and William "Bill" Ming, all experts of the national NAACP legal staff, brought many of the nation's leading sociologists, law editors and authorities as witnesses in the hearings that were at times, sensational.

Opinion by the court had been upheld until Monday's decision.

# Sweatt Loses Another Round In Fight For Texas Admission

Daily World
Atlanta, Ga.

AUSTIN, Tex.—(NNPA)—Herman Marion Sweatt, of Houston, last Wednesday lost another round in his fight for admission to the University of Texas School of Law. Thurs. 3-4-48

The Third Court of Civil Appeals upheld the trial judge's denial of a writ of mandamus to Mr. Sweatt against members of the Board of Regents of the University of Texas to compel Mr. Sweatt's admission to the law school.

The opinion, written by Chief Justice James W. McClendon, held that a colored student cannot attend a school for white students in Texas if the state provides separate but equal facilities for both white and colored students.

Chief Justice McClendon wrote that Texas had complied with the equal protection clause of the Fourteenth Amendment to the United States Constitution and with its own requirements for segregation.

The "controlling" question presented in Mr. Scott's appeal, said Justice McClendon, was whether the state at the time of the trial had provided and made available a course of instruction in first-year law equivalent or substantially equivalent to that provided at the University of Texas School of Law. Thurs. 3-4-48

**To Appeal Decision**

The appellate court found this had been done. Texas last fall opened a state university for colored students, at Houston. 3-4-48

Thurgood Marshall and W. J. Durham, attorneys for the National Association for the Advancement of Colored People, who represented Mr. Sweatt, are expected to appeal next to the State Supreme Court. Daily World

The District Court of Travis County ruled in June, 1946, that the action of the Board of Regents in denying admission of Mr. Sweatt to the University of Texas Law school was a denial of his constitutional right, but issuance of the writ was stayed for six months to permit the State to establish a separate law school for colored students substantially equivalent to the one at the University of Texas. Atlanta Ga.

The District Court, however, on December 17, 1946, denied a writ. The Court of Appeals in March, 1947, set aside the judgment of the trial court, and the case was tried on its merits and judgment rendered against Mr. Sweatt.

# Texas Upheld in Appeals Court on Jim Crow School

Daily Worker
New York, N.Y.
Thurs. 2-26-48

By United Press

AUSTIN, Tex.

Herman Marion Sweatt, Negro mail carrier from Houston, lost another round in his battle to enter the University of Texas Law School.

The Third Court of Civil Appeals, the last hurdle before the State Supreme Court, upheld a decision of a district court barring Sweatt from entering the school.

The court's action affirmed a ruling last May denying Sweatt a writ of mandamus, to force the University's board of regents to admit him to the school. It upheld the lower court's ruling that Texas had "effectually accomplished" by a temporary law school set up in Austin, all that was required under the U. S. Constitution. Thurs 2-26-48

# High Court Reverses Negro Teacher's Case

The Alabama Supreme Court today had reversed an opinion of Circuit Court here that the Jefferson County Board of Education had a right to fire a Negro teacher.

The teacher in the case is Ruby Jackson Gainer, who taught at the Praco school. The Supreme Court did not say whether she should be reinstated. It merely held that the Jefferson County School Board failed to comply properly with a Circuit Court order to show cause why she was fired, according to The Associated Press. The case was returned to the lower court for further proceedings.

The teacher claimed she was discharged because she was a petitioner in a Federal Court case charging the school board with discrimination in salaries paid Negro teachers. But Dr. John E. Bryan, superintendent of Jefferson County schools, said this was not the reason for her discharge. The school board dismissed her for "insubordination and neglect of duty," he said.

THE SUIT FILED in U. S. District Court here sought contempt proceedings against the school board for alleged failure to obey an earlier Federal Court injunction against alleged salary discrimination. Several hundred other Negro teachers later joined in the suit as plaintiffs.

Judge J. Edgar Bowron rendered the Circuit Court ruling after the teacher had petitioned for a writ of mandamus seeking to compel the board to reinstate her. Judge Bowron at first ordered the board to restore the teacher to her job or to show cause why it had not done so. But later, after a hearing, Judge Bowron entered a final decree holding the board had not unjustly canceled the teacher's contract.

Justice Joel B. Brown, who wrote the Alabama Supreme Court decision, stated that the school board did not present evidence that the reason for the teacher's dismissal was contained in minutes of the meeting at which the action was taken. This, Justice Brown pointed out, is required by law.

THE SCHOOL BOARD also failed to show that the teacher had been reinstated, Justice Brown held. He ruled that the school board had not complied with the original Circuit Court directive.

Attorneys for the school board contended the litigation was of such nature that they could show reasons in court for the dismissal.

The writ of mandamus brought by the teacher charged that she was fired without valid reason. It stated that Dr. Bryan read into the board's record "purported communications from third parties" allegedly having to do with her competency or incompetency.

The teacher further accused the board of injecting at times insinuations of communism against her and accusations of having fostered discord between the white and Negro races.

# Fired Tutor to Get Second Hearing

## Ala. High Court Rules; 1st Trial Called 'Sham'

MONTGOMERY, Ala (NNPA) — Reversing the Jefferson County Circuit Court, the Alabama Supreme Court r emanded the case of Mrs. Ruby J. Gainer to the lower court for further proceedings. Mrs. Gainer is fighting to be reinstated as a teacher in the Jefferson County public schools.

Mrs. Gainer had been denied a writ o f mandamus. Judge J. Edgar Bowron of Jefferson County Circuit Court, before whom the case was tried, ruled on Sept. 8, that the Board of Education was justified in dismissing her petition for reinstatement.

**Trial Called Sham**

The decision of the Alabama Supreme Court came after Arthur D. Shores, George Brown and Crampton Harris, attorneys for Mrs. Gainer, had argued that the hearing before the Board of Education was a "sham," and was conducted in a "hostile' atmosphere.

They also contended that the board's decision violated the Alabama tenure law. The Jefferson County Board of Education dismissed Mrs. Gainer on charges of "insubordination, neglect of duty and other good and just causes."

# California Permits Mixed Marriages

SAN FRANCISCO— (AP) —A California law of 1872 prohibiting marriage of a white person and a Negro was torn out of the statute book, Friday.

The State Supreme Court ruled the law, which also barred Mongolians and members of the Malay race from such marriages, was unconsitutional.

The four-to-three opinion stated the law violated the "equal protection of the laws" clause of the U. S. Constitution by impairing, on the basis of race alone, the rights of persons to marry, "by arbitrarily and unreasonably discriminating agaist certain racial groups."

Miss Andrea D. Perez, White, and Sylvester S. Davis, Negro, were denied a marriage license in Los Angeles and appealed to the Supreme Court. They said they were Catholics, and the church didn't forbid their marriage.

The Supreme Court affirmed "marriage is something more than a civil contract subject to regulation by the state. It is a fundamental right of free men."

Oct 1, 1948

# CONVICTION IN GA BLUDGEON DEATH UPHELD

ATLANTA, Ga., July 13.—(UP)—Georgia supreme court upheld today the conviction of a Negro woman and two teen-aged sons who were found guilty of the bludgeon murder of a 66-year-old white sharecropper.

The case had attracted nationwide attention when it was publicized by the Communist Daily Worker and later championed by Henry Wallace's third party.

Georgia's seven-judge tribunal unanimously upheld the conviction on the grounds that there was a sufficiency of evidence.

The prosecution charged that Rosa Lee Ingram and two of her sons, Wallace and Sammy Lee Ingram, killed John Ethron Stratford by beating him with a rifle, hoe and claw hammer near Americus, Ga., following an argument over a stray mule.

Stratford, according to testimony, went to the Ingrams with his rifle after their mule strayed into his corn patch. He struck Rosa Lee Ingram, the record showed, but later sought to run when disarmed. The high court said the Ingrams could not plead self-defense, since Startford had ceased to attack them and was killed during a second struggle.

## Equal Pay For Teachers

The Atlanta equal pay salary suit has at last come to a victorious conclusion. Federal District Judge E. Marvin Underwood has ruled that there is discrimination between the salaries paid to Negro and those paid to white teachers; that these differentials are based solely upon race and color and that as such, Negro teachers must have relief from that discrimination. Daily World,

"The crucial question in this case," the Judge states, "is whether the very substantial differential between the salaries of white teachers and the colored teachers represented by plaintiff is due to discrimination on account of race and color. I find that it is and that plaintiff is entitled to the relief sought for himself and the principals and teachers he represents," Mr. Underwood declared. 9-30-48

Accordingly, the decision directs that the Board of Education set about equalizing the salaries within a "'reasonable length of time." The court, he said, realizes that a readjustment of salaries will be a difficult task and therefore, will require time and patience. The lawyers on both sides, of course, will be expected to agree among themselves what is to be a "reasonable length of time," and failing to do so, then the court will do so. Atlanta, Ga.

In itself, the decision is a splendid victory for Democracy in the educational system of Atlanta. The salaries should have been equalized long ago, without even a hint of a suit from a Negro teacher to force them, since the schools constitute the arsenal of democracy and fairplay. Thurs.

There is some hint that Judge Underwood's decision will be appealed. That is a bare possibility. But appeal or no appeal, the decision is sure to stand and no new promises or change of heart will change the fundamental and inescapable fact that gross and frightful discrimination between the pay of white and Negro teachers exists. 9-30-48

Atlanta has not been fair in its consideration of Negro teachers. Her injustice to Negro children is even more grevious. And while the suit compelling the Board to equalize teachers' salaries is fundamental, it would be a mistake to presume that it is going to satisfy Negro citizens. For it is clear that the education officials have not and seem not to be seriously moved by the inequalities which exist in the facilities provided for Negro children. And it should accasion no shock to the senses if some parent come forward with a suit for relief to this gross discrimination.

## WIN ATLANTA PAY PARITY

### Negro Teachers Are Victimized, Federal Court Rules

ATLANTA, Sept. 28 (AP)—Federal Judge E. Marvin Underwood ruled today the Atlanta School Board had discriminated against Negro teachers "on account of race or color." The ruling was in five-year-old suit charging the school board with salary inequalities based on racial discrimination. Judge Underwood held that the Negro teachers were "entitled to the relief sought."

The court disclaims any power to fix the salaries of the teachers," he said. "That is the right and within the province of the defendants. The court only decrees that the salaries may not, when so fixed, be discriminatory of color or race."

# Exclusive White Golf Links Barred by Baltimore Judge

The Post
Washington, D.C.

A Federal judge yesterday ordered opening of three exclusively white Baltimore public golf courses to Negroes, about the time a police magistrate was holding for grand jury action 21 persons for playing white-Negro mixed doubles on tennis courts in a park, allegedly violating segregation rules. Issue.

Judge W. Calvin Chesnut signed an injunction restraining the city from enforcing a park regulation that reserves three golf courses for white players, the Associated Press reported. 7-13-48

Th eorder was issued on a complain tagainst the city by Charles E. Law, a Negro golfer. Judge Chesnut ruled June 18 that Negroes are entitled to play golf on all four of the municipal courses. He held that facilitie sat the Carroll Park course for Negroes are not "substantially equal" to thos efor white golfers a tthe other three courses.

The injunction left room for either party to apply for change or enlargement of the order.

**Carried Off Courts**

Meanwhile the 21 Negroes and whites, arrested Sunday, were held for the grand jury on charges of breaking the segregation regulations and disorderly conduct.

Police had to carry most of them to patrol wagons when they broke up the outing yesterday.

Fourteen of those arrested were released without having to put up bail on charges of violating the park rules. Three were held in $250 bail on charges of disorderly conduct in the park, and four others faced the same charge for demonstrating later in front of a police station.

One of the Negroes originally arrested was dismissed.

The Young Progressives of Maryland said it sponsored yesterday's outing to test the park board's segregation rules. The group is a branch of Henry A. Wallace's Third Party.

Park officials said they informed the whites who obtained permits for use of the courts that no mixed matches would be allowed. Capt. Gordon Gaeng of the park police was on hand when play started.

Gaeng said he twice ordered the matches broken up and when he got no response he called city police. A score of the players plopped themselves down on the courts when the regulars arrived and refused to move.

Police carried most of them [illegible] to patrol wagons. More than 500 spectators hurled taunts at the officers and later staged a demonstration outside police headquarters. The Post

Police booked seven of those arrested on disorderly conduct charges as well as for refusal to obey park police. Thirteen of those booked are Negroes and seven are women.

**Arrests Condemned** 7-13-48 Times

The arrests were "condemned" by Harold Buchman, State director of the Progressive Party, and Dr. John E. T. Camper, party co-chairman and candidate for the House of Representatives. "The arrests were a flagrant violation of the constitutional rights of these well-mannered, orderly players," the declared.

Stanley Askin, director of the Young Progressives and one of those arrested, declared the group refuses to "recognize any color line." Washington, D.C.

The State central committee of Maryland Progressive Party adopted a resolution stating "the forcible expulsion is a graphic example of the extent to which both major parties continue their policies of segreation."

The resolution maintained "the arrest of these youngsters was unsupported by any law or rule."

## Cab Calloway Granted New Trial in Missouri

Jefferson City, Mo., July 12 (AP). The Missouri Supreme Court ordered a Jackson County (Kansas City) Circuit Court today to give Cab Calloway, the Negro orchestra leader, a new trial in his $200,000 lawsuit against a Kansas City ballroom for an alleged "bouncing."

The court held defense attorney's arguments were "prejudicial and tended t odeprive" Calloway of a fair trail. It ordered the lower court's devision favoring the Pla-Mor ballroom set aside and a new trial set.

# Cab Calloway Wins State Court Nod In Ejection Suit

JEFFERSON CITY, Mo.—(ANP)—King of the "hi-de-ho", Cab Calloway won the nod from the Missouri supreme court here last week for a retrial of his $200,00 damage suit against owners of the Pla-Mor ballroom, Kansas City, from which he was ejected in 1945 because of his race. The justices disagreed with the Jackson County Circuit court's decision denying damages to Calloway and ordered a new trial because of prejudicial argument by attorneys for the ballroom.

Supreme Court Commissioner John H. Bradley, author of the opinion, held that counsel for the defense had committed prejudicial error in argument by comparing the orchestra leader to Hitler and also in suggesting that Calloway might have evaded war service, and invoking "the racial angle." The argu ments tended to deprive the man of a fair trial, said the commissioner.

"A fair trial is underwritten in any forum in Missouri, regardless of color, creed or country of the litigants," he said.

### VISITING HAMPTON

The suit surrounded Calloway's attempt to enter the ballroom on Dec. 25, 1945, to visit Lionel Hampton, who was playing an engagement there. In the resulting row, Calloway was arrested, taken to jail and later released on bond. He sued, asking $50,000 actual and $50,000 punitive damages for false arrest and imprisonment.

The prejudicial argument, to which the high court took exception, was made by Atty. Paul C. Sprinkle. The court's opinion quoted Sprinkle as say ing, "From the very outset in the trial of this case there has been repeated reference to the fact that the plaintiff is an artist. He is an artist, therefore, the inference is that he should recover because he is an artist.

Another bit was: "These witnesses testify here that Cab Calloway is now 38. And I wondered why wasn't Calloway out doing his share when the war was being fought. Is it because of his physical inability to do so?"

### OBJECTION NOTED

The court noted that the band leader's attorney objected to this statement. Than Sprinkly is record ed as saying:

"In trying this law suit, I represent a lot more than the Pla-Moor and these four men sitting here (owners of the ballroom); I represent Kansas City, I represent the Kansas City way of life, I represent this community, I represent the way we live and the way we expect others to live, and members of the jury, when you go home tonight and look your families in the eyes. I want you to be able to say, 'well, I represented Kansas City also and we didn't let New York come out and take a chunk out'."

The court said that even though Calloway's attorneys did not object, the remark was definitely "prejudicial."

## Court Rules for Peaceful Picketing

**JEFFERSON CITY, Mo. (FP).—Missouri laws do not outlaw peaceful picketing where there is no labor dispute, the Missouri Supreme Court ruled here.**

**"Peaceful picketing, that is picketing unaccompanied by coercion, intimidation or violence, cannot be restrained on the ground that no labor dispute or relation of employer and employe exists between the pickets and the picketed," the decision stated.**

**The second such ruling within a short time, the case involved an injunction and $10,000 damage suit by three building contractors against four officers of the St. Louis Building & Construction Trades Council, AFL.**

# Bias Plea Wins Cab Calloway A New Trial In Jimcrow Suit

JEFFERSON CITY, Mo., July 12—Cab Calloway, the Hi-de-Ho orchestra maestro, was granted a new trial in his $200,000 suit against the operators of the Pla-Mor ballroom. He and Atty. Felix Payne were forcefully ejected from the dance hall where he had gone incognito to visit friends during a stopover here December 25, 1945. The two had bought tickets but the hefty bouncer and his aide invoked the segregation law of white amusement places in the city with fists and pistol butt.

Supreme Court Commissioner John H. Bradley, who wrote the opinion held defense counsel committed prejudical error in argument. The opinion referred to defense attorney Paul Sprinkle harping on Calloway's standing as a ranking U. S. artist which made him feel inflated enough to think he could be with white dancers. It quoted the following from the records:

"You know as I listen to these witnesses testify here is Cab Calloway, now 38 . . And I wondered why wasn't Calloway out doing his share when the war was being fought. It is because of his—(Calloway's attorney objected, but Sprinkle continued) "Is it because of his physical inability to do it?"

The third argument by Sprinkle was found the most damaging to Calloway by the Supreme Court:

"You know," Sprinkle is recorded as saying, "in trying this law suit I represent a lot more than the Pla-Mor and these four men sitting here; I represent Kansas City, I represent this community, I represent the Kansas City way of life, I represent the way we live and the way we expect others to live, and members of the jury, when you go home tonight and look your families in the eyes, I want you to be able to say 'well I represented Kansas City also, and we didn't let New York come out and take a chunk out."

The court said that even though Calloway's attorney did not object to the last remark, it was apparent it was prejudicial.

New York

# Buck, Bubbles' Efforts To End Contracts Fail

Defender
Chicago, Ill.
Sat. 7-10-48

NEW YORK — The personal management contracts Nat Nazarro holds with Buck (Ford Lee Washington) and Bubbles (John W. Sublett) were both upheld in the New York Supreme Court last week.

Buck sought to break the agreement, and Bubbles asked an injunction to keep Nazarro from intervening in his personal affairs. Their contracts have two years to run.

The case attracted much attention because the actors sought to end the deal whereby they surrender 40 per cent of their earnings in bookings and personal management fees.

They declared that such an arrangement was in violation of the New York General Business Law. Under the agreement Buck and Bubbles received a guarantee of $100 each week for 28 weeks, while Nazarro collected all salaries and made all payments.

Nazarro said that the contrct put him in the employer class because of the guaranteed salary clause. The court upheld him in this

Sat. 7-10-48

Justice Hecht, in ruling for the manager, left the way open for more litigation by declaring that the comic duo could still sue if they felt Nazarro was not putting forth his best efforts to find work for them.

LEEDY CLINTON, member of the Special Staff of the Bureau of Internal Revenue, who sat in the Supreme Court Grand Jury recently in New York, the only Negro selected to hear and render decision on one of the cases docketed in the New York docket this month.

12b 1948

Oklahoma (Sipuel)

# NEGROES' LAW SCHOOL ORDERED IN OKLAHOMA

OKLAHOMA CITY, Jan. 17 (AP) —The State Supreme Court ruled today that a separate law school must be set up in Oklahoma for Mrs. Ada Lois Sipuel Fisher, 23-year-old Negro woman who seeks admission to the law school at the University of Oklahoma.

The State Supreme Court's ruling followed a decision by the United States Supreme Court last Monday that "equal education facilities" must be made available to Negroes as promptly as they are to white students.

The United States Supreme Court's ruling was on the appeal of Mrs. Fisher, who challenged the Oklahoma law requiring separate schools for white and Negro students.

The State tribunal's ruling said:

"The State Board of Regents is hereby directed to afford to plaintiff, and all others similarly situated, an opportunity to commence the study of law at a state institution the same as citizens of other groups are afforded such opportunities in conformity with the equal protection clause of the Fourteenth Amendment of the Federal Constitution, and with the provisions of the constitutions and statutes of this state requiring segregation of the races in the schools of this state."

# OKLAHOMA IS TOLD TO END NEGRO BAN

## Federal Court Says University Acts Unconstitutionally and State Must Alter Laws

OKLAHOMA CITY, Sept. 29 (AP) —Barring of a Negro graduate student from the University of Oklahoma was held unconstitutional today.

A three-judge federal court did not order his immediate admission, however. Instead, it gave the State of Oklahoma time to amend its segregation laws so as to permit all Negroes to enroll for courses not available in separate schools.

Gov. Roy J. Turner promised the court in a letter that this would be done.

The court did not hold the state's segregation laws unconstitutional in their entirety. Oklahoma provides some college courses in a segregated Negro school and these were not affected by today's ruling. The state does not now provide graduate work in this school.

The graduate student who appealed to the court is G. W. McLaurin. A retired professor, he tried to enter the University of Oklahoma to complete work on a doctor's degree in education.

University officials admitted he was excluded solely because of race.

Langston University, the state's only Negro college, does not provide the degree that Mr. McLaurin seeks.

"In so far as the Oklahoma statutes deny or deprive admission of the plaintiff to the university they are unconstitutional and void," said the Federal court opinion.

It was read by Circuit Judge A. P. Murrah, with Bower Broaddus and Edgar S. Vaught concurring. All three are Oklahomans.

"We refrain at this time from granting injunction relief on the assumption that the state will follow the law," the judges said.

Mr. McLaurin asked for an injunction restraining the university from enforcing the state racial segregation laws barring him from the school.

"The plaintiff," the court ruled, "is entitled to secure a post-graduate education in this state by a state institution.

"To this, he has been denied and deprived, although his application has been duly made.

"At the same time the education was afforded by the state to other groups.

"The state is under constitutional duties to provide the plaintiff with equal facilities as soon as to other students."

# Oklahoma Segregation Upheld By U. S. Court

OKLAHOMA CITY, Nov. 22.—(AP)—A special three-judge federal court held today a Negro has no right to "obliterate social and racial distinctions" in Oklahoma.

The court's decision came in the case of a Negro student seeking the right to attend non-segregated classes at the University of Oklahoma.

The court refused to abolish segregation in classes attended by G. W. McLaurin, first Negro ever enrolled at the school.

# Court Rules Barring Of Negro From College Unconstitutional

OKLAHOMA CITY — (AP) — Barring of a Negro graduate student from the University of Oklahoma was held unconstitutional Wednesday.

A three-judge federal court did not order his immediate admission, however.

Instead, it gave the state time to amend its segregation laws to permit all Negroes to enroll for courses not available in separate schools.

Governor Roy J. Turner promised the court in a letter this will be done.

The Negro graduate student who appealed to the court is G. W. McLaurin.

A retired professor, he tried to enter the university to complete work on a doctor's degree in education.

University officials admitted he was barred solely because he is a Negro.

Langston University, the state's only Negro college, does not provide the degree he seeks.

"In so far as the Oklahoma statutes deny or deprive admission of the plaintiff to the university they are unconstitutional and void," said the federal court opinion.

It was read by U. S. Circuit Judge A. P. Murrah, concurred in by Bower Brauddus and Edgar S. Vaught.

All three are Oklahomans.

"We refrain at this time from granting injunction relief on the assumption that the state will follow the law," the judges said.

McLaurin asked for an injunction restraining the university from enforcing the state racial segregation laws barring him from the school.

"The plaintiff," the court ruled, "is entitled to secure a post graduate education in this state by a state institution.

"To this, he has been denied and deprived, although his application has been duly made.

"At the same time the education was afforded by the state to other groups.

"The state is under constitutional duties to provide the plaintiff with equal facilities as soon as to other students."

## *Basic Issue Still Not Ruled On By Supreme Court*

IN THE SIPUEL (FISHER) case, the Supreme Court underlined the compulsion of compliance *now* in the language of its decision and in the speed with which it was rendered. It did not, however, go the further step that was asked of it in the SIPUEL vs. University of Oklahoma case, which was to rule as unconstitutional all forms of educational segregation. A favorable ruling on that issue would have removed all semblance of legality from the dual or segregated mode of schooling common to seventeen or eighteen of the states.

It is easy to foresee that the affected states will invent every stratagem with any color of legality to avoid the simple step that would comply with the highest judicial rulings—admission to existing colleges of qualified students without reference to their religion, politics, race, color, or national origin.

For a decade, sensing the approach of new requirements, some officials and educators of the Southland have looked fondly at so-called regional universities as a way to have their cake and eat it too. The most formal endorsement of that plan took shape last October at the Southern Governors' Conference, and on Sunday a committee of the governors met with representatives of Meharry Medical College's board of trustees and elicited a proposal that the professional college, valued at $8,000,000, would be offered to 15 southern states if they adopt a cooperative program for separate regional schools for white and Negro students.

The governors themselves have pointed out two major obstacles to the regional school plan, whereby a group of states would jointly operate a university. One is a constitutional requirement for enabling legislation which Congress must enact to permit the *interstate* project. The other is whether the U. S. Supreme Court will rule that the interstate schools fulfill each state's own obligation to provide every student training equal to that provided any other student at public expense.

Governor MILLARD T. CALDWELL of Florida, whose callous attitude about a lynching in his state prompted *Collier's* magazine to comment unfavorably, whereupon he filed suit against that publication, is the chairman of the governor's committee and served as its spokesman after Sunday's meeting at Nashville. Serving with him were Governors JIM NANCE MCCORD of Tennessee, WILLIAM M. TUCK of Virginia, WILLIAM PRESTON LANE of Maryland, and MELVIN E. THOMPSON of Georgia. Governor BEN T. LANEY of Arkansas is on the committee but did not attend Sunday's conference.

After the conference Governor CALDWELL proved he is an expert at sophistry. He said the regional school program "is not aimed at resolving racial questions," but earlier he had said that for the plan to become effective the Supreme Court must rule that the interstate school would fulfill each state's obligation to provide its Negroes with medical training facilities equal to those available to its white students.

Nobody is fooled by the pretensions of the governors. Everyone knows that they are seeking to keep a Jim-Crow system of education. Candor would be much more becoming.

# Trainmen Win Round Against Brotherhoods

Daily World
Fri 2-13-48
Alanta Ga

## Motion To Drop Suit Overruled By U. S. Judge

BY ALMITA S. ROBINSON

FORT WORTH, Tex. — (ANP)— Negro trainmen won round one in their right to halt discriminatory practices by railroads when U. S. District Judge Moore last week overruled the motion of four white railroad brotherhoods and the St. Louis San Francisco railway company to dismiss the case of the Association of Colored Railway Trainmen against them.

Ft Worth 2-12-48

The association filed suit against the brotherhoods and the railroad company last month for $4,400,002 damages. It charged in the suit that the company and the white unions entered into a discriminatory agreement which read:

"Effective March 14, 1928, in the future hiring of employes in train, engine and yard service, but not including train porters, only white men shall be employed."

The suit also charges that later agreements limited the number of Negroes to be hired in each class of service in each seniority district and took away brakemen's duties from train porters.

The five individual plaintiffs are James Tillman, Oklahoma City; Theodore E. Harper, James L. Howard and N. L. Bogan, Birmingham, and Abe Smith, Memphis.

The Courier
Pittsburgh, Pa.

# U. S. Judge Orders Stop to School Bias

**From Pittsburgh Courier Press Service**

RICHMOND—Federal District Judge Sterling Hutcheson last week ordered Surry County to equalize its segregated school facilities. This unprecedented court decision was the first of four to be rendered by the court involving four Virginia counties.

The court ruled that the county was to begin immediately to equalize teachers salaries, that at least half of the differential between the salaries of whites and Negroes must be eliminated by the beginning of the fall term and that the differential must be entirely abolished one year later.

Surry County must report to the court on its progress by Sept. 15. Other inequities to be corrected under the court order are: lack of a Negro high school, lack of consolidated schools for Negroes, inadequate bus transportation for colored students, and the lack of certain courses in science, trades and industries in colored schools.

The complaint on which the decision was rendered was brought by Richard Kelly, a Negro student. Similar cases are before the court from King George, Chesterfield and Gloucester counties in Virginia.

The salary differential in the county is about $300 per teacher, according to county sources.

# Richmond Schools Must Offer Equal Education

The Defender

RICHMOND, Va. — Following the complaint of a Negro pupil in Surry County, the school system has been ordered by Federal District Judge, Sterling Hutcheson, to equalize its facilities for Negro and white students along with establishing equal pay scales for Negro and white teachers.

Under the court order the school board has until September 15 to report what progress has been made. School facilities are to be equalized immediately and half the difference between white and Negro teachers salaries are to be eliminated by the beginning of the fall term and completely dropped a year later.

**Student Complains**

The student, Richard Kelly, filed the complaint last July through his grandfather, James Bage. Five instances of discrimination were listed.

It was charged that the Negro high school was unequal to that for whites, no consolidated schools are provided for Negroes, bus transportation is inadequate, teachers pay scales are unequal, and courses in commerce, science, trades and industries are not offered Negro students.

# Virginia Appellate Court Holds Arrest Not in Order

The Afro American
Sat 3-13-48

National Law Termed More Important Than Local Custom; No Disorder by Woman

RICHMOND—The following is the complete text of opinion written by Associate Justice Vernon C. Spratley of the Virginia Supreme Court of Appeals in the case of Mrs. Lottie E. Taylor of Washington, in which the court, in a unanimous decision, outlawed segregation on buses in Virginia.

From the Circuit Court of Fairfax County, Paul E Brown, Judge.

The plaintiff in error, Mrs. Lottie E. Taylor, a colored woman, upon an appeal from the judgment of the trial justice, was tried in Circuit Court of Fairfax County on a warrant charging that on the 12th day of Sept., 1946, she "did unlawfully cause an unnecessary disturbance in an omnibus or public conveyance by failing to move to another seat when lawfully requested so to move by the operator of thereof, said failure being in violation of Section 4535-a of the Code of Virginia."

**Pleaded Innocent, Fined**

She pleaded not guilty and waived trial by jury. With the consent of the Commonwealth, the casee was then heard by the trial judge. She was found guilty and sentenced to pay a fine of $5 and costs.

The facts are without material dispute.

On Sept. 12, 1946, Mrs. Taylor purchased a ticket from Virginia Stage Lines, Inc., a common carrier by motor vehicle engaged in operating a bus line from Washington, D.C., to points in Virginia. Her ticket entitled her to be transported from Washington to Brightwood in Madison County, Virginia.

She boarded a bus of the carrier and took the fifth seat from the front of the vehicle. The bus driver immediately requested her to move to a seat in the rear of the bus because, under the rules and regulations of his company, colored persons were required to sit in the rear and white persons in the front.

**Not Enforced in District**

She refused to move. He then told her that while the regulations were not enforced in Washington, she would have to move when she arrived in Virginia. After she arrived in Virginia, he several times requested her to move.

He said he also read to her the regulations of the carrier and called her attention to a copy of them posted prominently at the inside front of the bus. She still refused to change her seat.

The rules and regulations of the carrier read as follows

**"NOTICE TO PASSENGERS**

**Rules and Regulations**

"To enable this company to perform the duties it has undertaken, to protect its property and business, to preserve order and decorum, and for the safety, convenience and comfort of its passengers, it hereby publishes the following rules and regulations:

"1. Passengers shall not interfere with bus drivers, by conversation or otherwise.

"2. The company reserves full control and discretion to the seating of passengers, reserves the right to change such seating at any time during a trip, and reserves the right to transfer passengers from one vehicle to another whenever necessary.

"3. White passengers will occupy space nearest the front of the bus, and colored passengers will occupy space nearest the rear of the bus.

"4. The company reserves the right to refuse to transport a person under the influence of intoxicating liquors, or drugs, or who is incapable of taking care of himself or herself, or whose conduct is such or is likely to become such as to make him or her objectionable to other passengers.

"5. Any passenger who shall engage in any disorderly conduct on a bus or who shall interfere with the safety or comfort of other passengers, or who shall interfere with the operation of a bus, or who shall fail to comply with these regulations shall be subject to removal.

"6. All passengers carried by this company are subpect to these rules and regulations, and all company drivers, dispatchers and supervisors are instructed to enforce them."

"VIRGINIA STAGE LINES, INC."

The bus had a seating capacity of 37 passengers. On the trip in question, 8 or 9 seats were vacant, some in front of Mrs. Taylor and some behind her. Back of her there were seated several white persons.

**Arrested at Fairfax**

Upon her continued refusal to move her seat to the rear, the operator of the bus deviated from his regular scheduled route and drove to Fairfax County Court ouse, Virginia, where he obtained the warrant upon which she was tried.

She was there removed from the bus. This occurrence caused a delay of about an hour and a half in the regular schedule of travel. There was no cursing, abusive language or disturbance other than the delay and deviation mentioned.

The remaining passengers on the bus were not otherwise disturbed, and only a few heard a part of the conversation between Mrs. Taylor and the bus driver. (Any disturbance created was caused by the driver of the bus, not the defendant.)

**Driver's Story Quoted**

The bus driver testified that "She said in a very loud voice at one point, 'I will not move.' That is just about all there is to it except she absolutely and blankly refused to move or leave the bus."

It was admitted that the carrier did not apply a single, uniform rule as to seating arrangements for the different races in interstate motor travel. Its regulation as to seating arrangements were sought to be applied subject to local rather than national requirements.

When Mrs. Taylor got on the bus in Washington, its driver said: "I suggested the defendant move. It was not a company regulation in Washington. I explained that to her. It would be up to her discretion as to whether she would like to ... arrived in Virginia or do so in Washington.

**Quotes Appellant's Brief**

The plaintiff in error contends that the evidence was insufficient to show that she was guilty of any disorderly conduct; that Virginia Code, 1942, (Michie) Section 4533-a is vague and ambiguous; and that the statute as applied by the trial court is an unconstitutional regulation of interstate commerce and an unconstitutional delegation of legislative power.

On the part of the Commonwealth, it is contended that the carrier had the right to adopt and enforce regulations providing for racial segregation on its conveyances; and that the operator of the bus thus had lawful authority to request Mrs. Taylor to move accordingly, and that her refusal to do so constituted an "unnecessary disturbance."

**Old Law Ruled Invalid**

In *Lewis* v. *Commonwealth*, 184 Va. 69, 34, S. E. 2d, 389, decided June 6, 1945, it was held that disorderly conduct is not a common law crime, and that Virginia Code, 1942 (Michie) Section 4533, did not cover disorderly conduct "on a common carrier known as a bus."

At the next session of the General Assembly, by an act approved March 26, 1946 (Acts of 1946, Page 494), Code Section 4533-a was enacted. The act reads as follows:

"AN ACT to amend the Code of Virginia, by adding a new section numbered 4533-a, to provide punishment for riotous or disorderly conduct in certain public places and to permit cities and towns to parallel this section.

"Be it enacted by the General Assembly of Virginia:

"1. That the Code of Virginia be amended by adding a new section numbered forty-five hundred thirty-three-a, as follows:

"Section 4533-a. Riotous or disorderly conduct in certain public places.—If any person behaves in a riotuos or disorderly manner in any street, highway, public building or any other public place other than those mentioned in the preceding seceion, or cause any unnecessary disturbance in any street, railroad car, omnibus or other public convayance, by running through it, climbing through windows or upon the seats, failing to move to another seat when lawfully requested so to move by the operator, or otherwise annoying passengers or employees therein, he shall be guilty of a misdemeanor."

It is conceded that Code, Section 4533-a, is a purely disorderly conduct statute, intended to cure an omission in Code, Section, 4533, the prior statute.

The amendment does not make the mere refusal of a person "to move to another seat when lawfully requested to so move by the operator," a criminal offense. It does not provide for racial segregation of passengers on a public conveyance, with a penalty for non-conformity.

**Keeping Seat No Crime**

It defines a separate and distinct crime — disorderly conduct — an offense arising from personal misconduct and misbehavior as distinguished from an offense arising out of the violation of a segregation statute.

The principles dealt with in the cases of *Hall* v. *DeCuir*, 95 U. S. 485, 24 L. Ed. 547, and *Chiles* v. *C. & O. Railway Co.*, 218 U. S. 71, 30 S. Ct. 666, 54 L Ed. 396, relied on by the Attorney General, are not here involved.

The facts and procedure in each of those cases are quite unlike those here. They were civil proceedings, actions to recover damages for alleged personal wrongs; the case before us is a criminal prosecution dependent upon a State statute.

**Law Vague, Ambiguous**

This power cannot ... Only "Subject to Removal"

The rules and regulations of the Virginia Stage Lines, Inc., herein ... does not purport to ... such authority to a ... to make the failure or refusal of a passenger to occupy a seat in ... common carrier. ... While common ... carriers may form ... reasonable rules ... They provide simply that ... independent of ... upon such failure or refusal the ... rity, for the con- ... passenger shall be "subject to re- ... agement of their ... moval."

It is very clear from the evidence that a violation ... constitute an offense ... state passenger, was requested to ... fine or imprison- ... move her seat because of her race and color, and that her refusal to ... The crime charged ... necessary. Admittedly, the request of the ... against the defendant is "riotous ... bus driver that the defendant ... or disorderly" conduct or misbe- ... move her seat was based on a rule ... havior in a public conveyance. ... of the carrier and not on any pro- ... The general words "any unnec- ... vision of law. ... essary disturbance," employed in ... "Simply Breach of Rules" ... the statute, Code, Section 4533-a, ... The gist of the ... relate to the particular class of ... crime ... personal conduct specifically first ... obey such request constituted, at ... mentioned in the statute, and in- ... most, a breach of the rules and ... clude only conduct of the same ... regulations of the carrier. As such ... class or kind. ... breach, it related only to the deal- ... Any other construction could ... ings and acts of private persons— ... make an offense of almost any act ... the defendant and the carrier. ... a judge or jury might think "un- ... The General Assembly alone has ... power to define crimes against the ... punishable by fine or imprisonment.

so move constituted the real basis of the charge against her.

She was sitting peaceably in a seat when she was approached by the operator of the bus. She had not disturbed any person or persons, or caused any commotion affecting, in any degree, the peace or good order of the bus.

**"Insisted on Her Rights"**

Neither her words nor her acts had a vicious or injurious tendency, offensive to good morals or public decency. She merely insisted upon what she deemed to be her rights. She was guilty of no definite misbehavior or misconduct in the sense that she was disorderly or turbulent.

The movements of the bus were directed by its operator. The delay and the deviation in its operating schedule were dependent upon the determination and wish of its operator, and not upon any control of the defendant.

For the foregoing reasons, we are of the opinion to reverse the judgment of the trial court, and dismiss the proceeding against the appellant.

*Reversed and final judgment.*

# Court Upholds Segregation on Bus in Virginia

## But Says There Must Be No Race Discrimination in Seating Arrangement

RICHMOND, Va., Dec. 7 (AP).—The United States Fourth Circuit Court of Appeals upheld Tuesday the right of an interstate carrier to segregate the seating of Negro and white passengers "providing there is no discrimination in the arrangement."

The appellate court handed down an opinion affirming a District Court judgment denying $25,000 to Mrs. Adeline Atwell Day, sixty-seven-year-old Negro woman of Syracuse, N. Y., who said she was forced off an Atlantic Greyhound bus in South Hill, Va.

The three-man court ruled that "the adoption of a reasonable regulation by an interstate carrier for the segregation of passengers does not violate the law as laid down by the Supreme Court."

The court's opinion, written by Judge Morris A. Soper, made a distinction between what the State of Virginia can do and the private carrier can do about segregation in buses and trains, on the basis of two Supreme Court decisions.

Judge Soper, acting in consideration of these decisions, said he felt the court was restrained from inquiring into whether the segregation of the races in public vehicles is in itself inherently discriminatory.

**Quotes Supreme Court Ruling**

On the subject of segregation in motor carriers by regulation of the state, Judge Soper's opinion quoted the Supreme Court decision, in Morgan vs. Virginia, which held that a Virginia statute calling for segregation of Negro and white passengers in motor carriers "imposes an undue burden on interstate commerce and therefore violates . . . the Federal Constitution" in requiring passengers, if necessary, to change their seats repeatedly.

The opinion said there was no doubt that a regulation of the carrier which involves repeated shifting of seats would in itself amount to discriminatory treatment in deprivation of the just rights of Negroes.

But that was not the case before the court, the opinion said. "When the plaintiff was requested to move, the bus was empty except for herself and the shift could have been made without substantial inconvenience either to the other passengers or to herself," the opinion stated.

# Left-Handed Segregation Gets OK From U. S. Court

(Special to The Courier)

RICHMOND, Va.—Differentiating between what the State of Virginia and a common carrier can do about segregation of races, the United States Fourth Circuit Court of Appeals ruled that an interstate carrier has a right to issue a segregation regulation not deemed discriminatory.

Briefly, said the three-man court, the State cannot segregate if such segregation requires passengers to "change their seats repeatedly in order to comply." However, the court continued, the carrier can legally segregate the races if it is "reasonable" about it.

**DENIED DAMAGES**

In an opinion written by Judge Morris Soper of Baltimore, the Court denied $25,000 damages to Mrs. Adeline Atwell Day, a 67-year-old woman from Syracuse, N. Y., who contended she was wrongfully ejected from an Atlantic Greyhound bus in South Hills, Va.

The appeals court said it based its findings on two Supreme Court decisions. One such opinion, said the appeals court, "limits the power of the States," but fails to touch upon regulations adopted by carriers. The other opinion, said the appeals court, "expressly sustains" the right of common carriers to segregate the races.

In his opinion, Judge Soper said Mrs. Day was en route from her home in Syracuse to Winter Haven, Fla., and had had a stopover in Richmond. He continued that the evidence showed she rode from Richmond to South Hill on the seat from the front, beside a white passenger, and refused to move.

**POLICE USED FORCE**

Judge Soper said that at South Hill the bus driver, acting in accordance with instructions from his employer, summoned police. As a result, Mrs. Day was confined in the South Hill jail for three hours. The judge noted that testimony showed that she lost a "number of her personal items" during a struggle with the police, but he said the evidence "failed to show that the police used more force than was necessary to accomplish their purpose."

Judge Soper added that Mrs. Day was "under the impression" that the Supreme Court, in the "Morgan case," had declared segregation within a State to be a violation of a Negro's constitutional right. This, he declared, was not the case. In this view he was joined by the two other judges who make up the appeals court.

RICHMOND, Va., March 31 (UP) Surry County today faced an overhaul of its school system after Federal District Judge Sterling Hutcheson ordered establishment of equal facilities for Negro and white students.

Sterling directed the Surry County School Board to begin immediately to equalize school facilities for white and Negro students and level salaries of white and Negro teachers.

The court injunction gave the board until Sept. 15 to report on its progress.

# Judge Rules

## Says No Question Of Illegality in Two-System Set-up

ORANGEBURG, S. C.—(ANP)—Federal District Judge J. Waites Waring is of the opinion that the law school of State A. and M. College here is "adequate" for the instruction of Negroes pursuing a career in law.

Last week he dismissed a suit brought by John W. Wrighten, Charleston, last fall, seeking admittance to the University of South Carolina Law School.

In his decision the judge pointed out that racial segregation is a "luxury" for Southern States and that South Carolina "apparently feels it can afford the luxury of $200,000 for a law school building for Negro students," separate from the university school.

**EQUAL IN SPIRIT**

"There is no question of the legality or illegality of segregation in this case. In my opinion the State has provided law educational opportunities equal to those at the university, in spirit as in letter," he said.

He promised a written order dismissing his previous order that the university would have to admit Negroes unless the State made available equal provisions for Negroes. However, he made it clear that his decision in this case need not apply in all cases, but "is for the time being." The latter statement was clarified when the judge said a materially different situation would apply if a student from an accredited law school applied for transfer to the A. and M. school before it established third-year courses.

**PRESENT SET-UP**

At present the biased setup only provides first-year law work. It is planned to add second year work in the fall with the full three-year course to go into effect when the new building is completed next year.

The judge also granted Wrighten's motion to withdraw his request for $5,000 in damages from the university for refusing to admit him on the basis of a State law barring Negroes from its school.

The university law school dean, S. L. Prince, declared that Negro students now have "better opportunities to get a law education than do those at the university." He claimed figures showed a 340 enrollment handled by a full and part-time faculty of fourteen at the university as compared with the Negro school's three instructors and eight fresmman students."

"For effectiveness, the faculties are equal," he asserted.

**MAY SURPASS**

Dean Benner C. Turner of A. and M. law school predicted that the setup would attain American Bar Association accrediting and membership in the Association of American Law Schools when its full three-year course is installed in September, 1949. Prince added a reminder that classroom facilities, law library and other items of the Negro school would then surpass those of the university, although the latter is planning a new building at a later date.

Atty. Thurgood Marshall, general NAACP counsel, represented Wrighten. The university was represented by Atty. D. W. Robinson, Columbia.

# Bourbons Would Ban Catholics Next Says Judge Waring

CHARLESTON, S. C. — (ANP) — Enroll Negroes on party books or go to jail, Judge J. Waites Waring of the U. S. District court here ordered the Democratic party in every county of the state in a history making court decision Friday.

In the case of David Brown against Beaufort county and 87 officials of the state Democratic party, the judge ruled that any future violation of the court's order "to the letter and spirit" would result in prison sentences for those who fail to comply.

On Monday, he issued an injunction to keep the party's books open until July 31. The judge's order grants "the prayer of a preliminary injunction, provide that the books be opened to all parties regardless of race, creed, color or religion."

A native of Charleston who has lived in that city all his life, the judge told Brown, "It is a disgrace and shame when you must come into a court and ask a judge to tell you you are an American."

He told the court, "The time has come when racial discrimination in the government in South Carolina must come to an end. American citizens must be treated with equality when electing their presidents, senators, et. Any disobedience of the letter and spirit of this ruling will result in contempt proceedings. The parties responsible for any violation will be punished by imprisonment."

During the proceedings, a race baiting candidate for the United States senate, Alan Johnstone, had to be bodily ejected from the court.

Refusing to allow Johnstone to "file a paper," Judge Waring told him, "The soap boxes are on the street, not in the courtroom. Take your seat."

Despite this warning, the candidate tried several times to interrupt proceedings. Finally the judge said, "I will not hear you at all."

Johnstone answered, "But your honor, please."

In making this decision, the judge excused Pickens, Laurens and Greenville counties because they had complied with his 1947 decision which applied to Richland county in the Elmore against Rice case. He commented that although the decision applied to only one county, he had hoped that the other counties would comply in the spirit of the decision.

Richland county was the only county not charged in this suit. After conference with Brown's lawyer, the judge concluded that the excused counties had complied. He said:

"I am glad to see that these three counties have men who have sense enough, nerve enough and patriotism enough to carry on their activities despite pressure and coercion.

"I feel quite ashamed that they are the only three counties in the state who recognize my authority."

Witnesses were quizzed by the judge himself and defense counsel Sidney Tyson. The most confused witness seemed to be State Sen. William P. Baskin, defendant and chairman of the executive committee of the Democratic party of the state.

Registration or enrollment on the Democratic party books will be held from 10 a. m. to 3 p. m. every day until July 31. A record number of Negroes are expected to enroll.

Under present state law, there are no primary election rules on the statute books in South Carolina. The Democratic party has the status of a private club. By this rule Negroes are kept from the polls. Last year Judge Waring ordered Richland to admit Negroes to the party. Most of the other counties of the state have refused, however, to open their books to colored citizens.

This decision is more sweeping than the 1947 decree. It is also being devised to include religious bias because, the judge said:

"Next time they will bar some of the Jews or some of the Roman Catholics."

About 70 Negroes and 12 whites jammed the hot courtroom to witness the case.

# Court Gives S. C. Negroes Party Rights

Charleston, S. C., Nov. 26 (AP).—A Federal District judge ruled today that Negroes have established their right to full membership in the South Carolina Democratic Party.

Judge J. Waties Waring held in an opinion that State party primaries are "the true, realistic election . . . which presidential electors, United States Senators and Congressmen are chosen"and declared that party officials have "no right to make any . . . discrimination amongst the citizens because of race or color."

The veteran Charleston judge in this way reaffirmed and made permanent his preliminary decision of last July 16, granting Negroes the right to vote in 1948 party primaries. The decision came in the case of David Brown, a Beaufort Negro, who brought action against the South Carolina Democratic Party and its officials to obtain full participation in party affairs.

Defense lawyers had argued that the party was in effect a private club and had a right to exclude whomsoever it chose, but Judge Waring rejected that theory.

"The theory has been completely outlawed and demolished," he asserted.

He likewise overruled party arguments in defense of a rule requiring primary voters to pledge their support of the principle of racial segregation. Party spokesmen had devoured major argument to defense of the party oath.

Of that, Judge Waring said today: "Under the rules adopted by the State party a Negro could never become a member, . . . could never have . . . any part whatsoever in the government of the party."

As to the party's effort to pledge primary voters to opposition to the proposed Federal Fair Employment Practices Commission Law, Judge Waring asserted: "Everyone knows that a Negro will not take a solemn oath that he is opposed to legislation that would remove discrimination against him."

"The Democratic Party as constituted cannot in the conduct of (its primary) elections make any racial or religious discrimination," he said.

# High Court Upholds Right to Vote in S. C. Primaries

WASHINGTON

The United State Supreme Court on Monday declined to review the decision of lower Federal courts holding that colored persons can not be barred from voting in elections in South Carolina.

The refusal of a review leav in full force and effect the ju ments of the Fourth U.S. Circuit Court of Appeals affirming a decision of the United States District for the Eastern District of Carolina, declaring white elections invalid

tion of damages for futuer deci

Wanted Democratic Party officials contended that South Carolina was a voluntary associa- tion and had the right to exclude any person from membership thatpassing 150 acts repealing all existing laws relating to primaries in order to benefit. At the time, South Carolina was not regulatedby any statue, butDemocratic Party free to set up its own rules governing party primaries conducted under party rules.

At the trial, Federal Judge J. Waties Waring reserved the ques

# S. Carolina Re-enters the Union

The Baltimore Sun

AFTER having kept Negroes out of politics for several generations, contrary to the Federal Constitution it is sworn to uphold, South Carolina has re-entered the Union and hereafter Negroes will vote without restriction.

The unreconstructed Democrats of South Carolina did not make this decision without considerable pressure.

Federal District Judge J. Waties Waring made up their minds for them by ruling that Negroes had established their right to full membership in the Democratic party of South Carolina and could not be barred from the primaries, which are "the true, realistic election at which Presidential electors, United States Senators and Congressmen are chosen."

The judge thus makes permanent his preliminary decision of last July 16, which granted Negroes the right to vote in the past primaries.

The old moth-eaten argument of South Carolina's politicians that the Democratic party there is a private club is thus relegated to the discard and the qualified Negro voter takes his place alongside all other citizens.

It took a long time to bring South Carolina back into the Union but now the return is complete and cannot be changed.

One of the last holdouts against democracy, South Carolina is welcomed back into the fold.

**South Carolina Ruling**

CHARLESTON, S. C. Nov. 26 (AP).—A Federal district judge ruled today that Negroes have established their right to full membership in the South Carolina Democratic party.

Judge J. Waities Waring held in an opinion that state party primaries are "the true, realistic election . . . at which Presidential electors, United States Senators and Congressmen are chosen" and declared that party officials have "no right to make any . . . discrimination amongst the citizens because of race or color."

The veteran Charleston judge in this way reaffirmed and made permanent his preliminary decision of last July 16, granting Negroes the right to vote in 1948 party primaries. The decision came in the case of David Brown, a Beaufort Negro, who brought action against the South Carolina Democratic party and its officials to obtain full participation in party affairs.

Defense lawyers had argued that the party was in effect a private club and had a right to exclude whomsoever it chose, but Judge Waring rejected that theory.

"The theory has been completely outlawed and demolished," he asserted.

**Overrules Party Oath**

He likewise overruled party arguments in defense of a rule requiring primary voters to pledge their support of the principle of racial segregation. Party spokesmen had devoted major arguments to defense of the party oath.

On that, Judge Waring said today: "Under the rules adopted by the state party a Negro could never become a member . . . could never have . . . any part whatsoever in the government of the party."

As to the party's effort to pledge primary voters to opposition to the proposed Federal Fair Employment Practices Commission law, Judge Waring asserted: "Every one knows that a Negro will not take a solemn oath that he is opposed to legislation that would remove discrimination against him."

"The Democratic party as constituted cannot in the conduct of (its primary) elections make any racial or religious discrimination," he said.

"Its patent and flagrant attempt to bar qualified Negroes from participating in full membership in the party and casting ballots in the primaries is illegal," Judge Waring held.

The temporary injunction oder signed last summer came in time t permit Negroes to register and vote in the August primary and the November general election.

**NEGROES BACKED FOR VOTE**

New York Times

**Federal Judge Decides Against South Carolina Democrats**

CHARLESTON, S. C. Nov. 26 (AP)—Federal District Judge J. Waties Waring ruled today that Negroes have established their right to full membership in the South Carolina Democratic party.

Judge Waring held in an opinion that state party primaries were "the true, realistic election * * * at which Presidential electors, United States Senators and Congressmen are chosen" and declared that party officials had "no right to make any * * * discrimination amongst the citizens because of race or color."

He thus reaffirmed and made permanent his preliminary decision of last July 16, granting Negroes the right to vote in 1948 party primaries. The decision came in the case of David Brown, a Beaufort Negro, who brought action against the South Carolina Democratic party and its officials to obtain full participation in party affairs.

Defense lawyers had argued that the party was in effect a private club and had a right to exclude whomsoever it chose, but the Court rejected that theory.

Judge Waring also overruled party arguments in defense of a rule requiring primary voters to pledge their support of the principle of racial segregation.

# Waring Critics Invade Judge's Home Town

Columbia Record

CHARLESTON, Aug. 4.—(UP)—This home town of Federal Judge J. Waties Waring braced today for an invasion by the judge's sternest critics—candidates for the United States Senate.

The campaign tour carried four of the five candidates through Moncks Corner this morning and they were moving into Charleston for tonight's next-to-last meeting of their joint stump tour. Friday's appearance in Columbia will end the campaign with the primary coming next Tuesday.

Incumbent Sen. Burnet R. Maybank, Alan Johnstone, Marcus A. Stone and W. J. Bryan Dorn attacked Judge Waring after he ordered state Democratic party membership opened to Negroes.

A fifth candidate, Neville Bennett, did not join the attack.

The senatorial aspirants were expected to enlarge on their Waring criticism here today. Maybank still was in Washington at the special session of Congress.

Johnstone, who was forced by baliffs to leave Waring's courtroom recently, has pledged that if elected he will deal with the "judicial tyrant" and "take the robes from his unworthy back."

Dorn, who left his third congressional district seat undefended to run for the Senate, introduced a resolution at the current special session of Congress asking for an investigation of Waring's conduct on the bench.

Maybank, needled by Johnston who claimed the senator recommended Waring's appointment, said he was first to censure and could not be "responsible for his actions, on or off the bench."

Bennett has stuck by his prime plank in calling for laws to support farm prices permanently. Stone has continued to advocate less federal interference, fewer taxes and repeal of the Taft-Hartley law.

# Judge Rules That Texas Must Equalize Schools

WACO, Tex. — (ANP) — In a surprise decision made after a conference with attorneys, Federal Judge Ben H. Rice declared that the Hearne independent school district must provide equal facilities for Negro children by the time school opens.

In making this ruling the judge said that the schools must be equal in physical plant, library facilities, curriculum and in every other respect.

This decision was made in the Hearne case in which C. G. Jennings, Negro truck driver, is asking that his daughter, Doris Fay Jennings, 14, either attend the white high school in Hearne or be given equal facilities at the colored school.

The judge gave his opinion after a talk with attorneys for the defense, but without the concurrence of the NAACP attorneys handling the Jennings side, Thurgood Marshall and W. J. Durham of Dallas.

Judge Rice quoted the 14th amendment of the U. S. Constitution and the "equal but separate" segregation statutes of Texas in his judgment.

Marshall said:

"Our petition prayed the court to enjoin the Hearne Independent School district from further discriminating against the Negroes of Hearne.

"We insist upon taking no cognizance of the segregation laws of Texas since we consider them to be unconstitutional, and we made this position plain to the court."

The Hearne district is reported to have had 668 colored and 748 white students last year.

What the NAACP attorneys plan to do after the opening of schools is still undecided.

rehearing on a writ of error, last week, blocking off his last appeal in that state.

Sweatt, a Houston letter carrier has tried for the past two years to gain admission to the University of Texas law school. His case has been shunted back and forth through every court in the state that claims jurisdiction.

As a direct result of Sweatt's fight, the state opened a new university for Negroes. The 50th legislature set aside $2,500,000 to open the school. Sweatt and others opposing Jim Crow education have avoided the graduate schools

**Negro Loses Texas School Fight**

AUSTIN, Tex., Oct. 27 (AP)—A Houston Negro today lost what likely will be his last state court effort to force admission to the University of Texas. The State Supreme Court denied Heman Marion Sweatt's motion for rehearing of the case in which it had denied his plea for a writ of mandamus compelling university officials to admit him. While the Supreme Court on rare occasions considers second motions for rehearing, Mr. Sweatt's attorneys have indicated they would carry their next appeal to the United States Supreme Court. The state argued its Negro Law School facilities are equivalent to those offered in the University of Texas Law School for whites.

# Texas Court Rebuffs Sweatt

AUSTIN, Texas — The Supreme Court of the United States remained as the last hope of Heman Marion Sweatt to overcome Jim Crow in higher education in Texas and enter the state university.

The state supreme court refused to review his motion for a

12c 1948

## Court Bars Damages To Negro for Bus Row

Lexington, Ky., Jan. 30 (AP)—A Federal Court jury refused here today to allow damages sought from Southeastern Greyhound Lines by a Negro student who charged he was forcibly ejected from a bus.

Ernest C. Preston, Jr., Roanoke, Va., a student at Kentucky State College for Negroes at Frankfort, charged that on July 26, 1946, he boarded a bus and took a seat behind the driver.

He said the driver ordered him to the back of the bus where there were no available seats, that he refused to move, and that the driver called two policemen who struck him and ejected him with more than necessary force. He asked $4,000 compensatory damages and $3,000 punitive damages.

## Negro Obtains Injunction In Swimming Pool Case

CHARLESTON, W. Va., Feb. 12 (AP)—The town of Montgomery has been directed by Federal Judge Ben Moore to permit Negroes to use its municipal swimming pool any time it is open, or provide them with equal pool facilities.

Judge Moore authorized issuance of an injunction against the town and its council, restraining them from denying use of the pool to Paul Lawrence and other members of the Negro race.

Judge Moore said a municipal government could not relieve itself of a constitutional obligation to afford all citizens equal rights.

In his petition for an injunction, Lawrence said Montgomery Negroes were denied their constitutional rights in view of the fact the pool was financed by funds raised through a public bond issue.

## Circuit Court Refuses; May Go To Top Tribunal

RICHMOND, Va., Feb. 6—(AP)—The United States Fourth Circuit Court of Appeals today denied a petition for a rehearing of an appeal from a South Carolina district court decision that Negroes are entitled to vote in the Democratic primaries there.

The circuit court ruled December 30 that District Judge J. Waites Waring had acted properly in enjoining party officials from excluding Negro voters.

At that time the court reminded "The political philosophy of the Declaration of Independence is that governments derive their just powers from the consent of the governed; and the right to a voice in the selection of officers of government on the part of all citizens is important, not only as a means of insuring that government shall have the strength of popular support, but also as a means of securing to the individual citizen proper consideration for his rights by those in power." The appeals court added:

"The disfranchised can never speak with the same force as those who are able to vote."

South Carolina's Democratic officials had argued unsuccessfully that they held the same right to exclude Negroes from primaries that a country club or a historical society had to exclude non-members from an election of officers.

### STAY IN SUIT TO DIE

In declining to rehear the case, the Circuit Court ordered that its mandate in the action be sent down to the district court at Charleston five days from today.

Attorneys in the case said that when the mandate reaches the district court, it will have the effect of dissolving the stay in the matter which was issued by District Judge George Bell Timmerman.

The Timmerman stay was issued shortly after Judge Waring's decision was put into effect, and it made the Waring opinion temporarily inoperative. In other words, the requirement of the Waring opinion that Negroes be permitted to vote in the Democratic primaries was temporarily held out by the stay.

The stay has remained in effect during the period of appeal, but unless some form of supercedeas is sought and issued in the meantime, the stay will die five days from today, and the party would be under the court's mandate to let Negroes

Within the five-day period between today and its expiration, the defendants, it is pointed out, could seek a writ of supercedeas from either the circuit court or the Supreme court which, if granted, would continue to make the Waring opinion inoperative.

It could not be learned early this afternoon whether this move would be made, but there was some indication the step would be taken.

It has been the plan of the party in the state to carry its appeal on to the United States Supreme court, and in effect the rehearing petition, now refused, was to clear the way for taking the case to the Supreme court. Today's order exhausts all recourse in the Circuit court.

The Supreme court may, or may not hear the case. It can refuse to hear it, and in that event the party would have lost, with no further course open to it in the courts.

If the Supreme court decides to hear the case, it will issue a writ of certiorari, calling for the record in the suit.

**In denying the petition today the court specified that a stay of Judge Waring's original order, granted pending action on this petition, should remain in effect for five days.**

## COURT BACKS SEGREGATION

### U. S. Judge Rules Carrier Has Right to Set Seating Rules

ROANOKE, Va., Jan. 1 (AP)—Federal Judge John Paul has ruled that a public carrier has the right to establish its own rules providing for the separate seating of white and Negro passengers where such separation is in line with local custom.

The district court jurist held in a written opinion that neither Congress nor its agent—the Interstate Commerce Commission—had ever attempted to regulate or control a carrier's rights to seat passengers as it saw fit. He noted that Congress had consistently refused to enact legislation which would ban segregation.

Judge Paul's opinion, just received at court here, was a rule in favor of a bus company in the case of William I. Simmons, a Negro clergyman, vs. the Atlantic Greyhound Corporation. The order directed a verdict in favor of the company, thus setting aside the $25 damages awarded by a jury to Mr. Simmons in his suit for $20,000 damages.

The suit was brought by the Negro clergyman as a test of rules established by the bus company after a Virginia statute covering segregation of races in public carriers had been declared unconstitutional.

## Seating Rules Up To Carrier, Judge Orders

### Negro Clergyman Loses Suit Against Bus Company

ROANOKE, VA., Jan. 1.—(AP)—Federal Judge John Paul has ruled that a public carrier has the right to establish its own rules for the separate seating of white and Negro passengers where such separation is in line with local custom.

The district court jurist held in a written opinion that neither Congress nor its agent—the Interstate Commerce Commission—had ever attempted to regulate or control a carrier's rights to seat passengers as it saw fit. He noted that Congress had consistently refused to enact legislation which would ban segregation.

Judge Paul's opinion, just received at court here, was a rule in favor of a bus company in the case of William I. Simmons, a Negro clergyman, vs. Atlantic Greyhound Corporation. The order directed a verdict in favor of the company, thus setting aside the $25 damages awarded by a jury to Simmons in his suit for $20,000 damages.

The suit was brought by the Negro clergyman as a test of rules established by the bus company providing for separate seating of white and Negro passengers after a Virginia statute covering segregation of races in public carriers had been declared unconstitutional.

The facts, as set forth in the suit, were that Simmons boarded a Greyhound bus at the Roanoke terminal on Oct. 16, 1946, to travel to Salisbury, N. C., to attend a meeting of the synod of his church. Although the bus was not crowded, the clergyman took a seat near the front instead of at the rear where Negro passengers customarily sit in the South. The bus driver asked him to move to the rear. He refused, left the bus and his ticket was returned to him.

Simmons said his rights under the Fourteenth Amendment had been violated.

The clergyman's allegation that his constitutional rights had been abridged was based on "indefinite' and "uncertain" grounds, Judge Paul said, and he noted that Simmons claimed no violent or abusive treatment.

He pointed out, also, that Atlantic Greyhound had on file with the ICC its schedule of tariffs carrying the following reservation:

"The carriers reserve to themselves full control and discretion as to seating of passengers and reserve the right to change such seating at any time during the trip."

The bus company, and other motor carriers, said during the trial that whites and Negroes were segregated on buses in the South as a means of preserving order and they regarded the regulation as "reasonable."

## Atlanta Has Right To Hire Negro Cops

ATLANTA — (ANP) — Judge Bond Almand of superior (circuit) court handed down as decision here Tuesday that the city of Atlanta had full authority to appoint Negroes to its police force. The ruling was made after the judge had rejected a taxpayer's contention that the plan was unconstitutional.

However, the city was unable to go through with the appointment of Negroes to the police force -- because it had no candidates to appoint. City Personnel Director Carl Sutherlan disclosed that 67 Negroes had applied for eight places on the force. Only 56 appeared for physical examination, and only two were qualified. These two, if they appear, must pass an oral interview and have their character checked. Sutherland said he had issued called for more candidates.

EQUALIZATION REQUIRED — Educational equalization was required by a decision handed down on April 7 by U.S. District Judge Sterling Hutcheson who ruled that facilities afforded Negro pupils in Chesterfield, King George and Gloucester counties were inferior to those for white children. Declaratory judgments and injunctions will be entered in each case. Spotswood W. Robinson, regional NAACP counsel, handled the cases. (New Journal & Guide, Norfolk, Va., April 15, 1948)

## Suit Against University Dismissed By Waring

The decision of Federal Judge J. Waites Waring, dismissing his order of year ago that the University of South Carolina law school would have to admit Negro students unless the state established an "equal" law school for Negroes, is concrete evidence that the federal courts will not adopt of a policy of decising these issues on a racial basis.

The Negroes, if they win, must have some semblance of law and justice on their side.

"It is my opinion that it (the state) has (provided legal education opportunities for Negroes equal to those at the university)," Judge Waring said, "(complying) in spirit as well as in letter to the order."

South Carolina, he commented, "apparently feels it can afford the luxury of $200,000 for a law school building for Negro students" distinct from the university.

And there is in the dismissal of the action against the university a warning to the Democratic party, which has not complied with the spirit and the letter of the Judge Waring's order in the Negro voting case. Judge Waring did not use these words "spirit and letter" lightly.

# Judge Waring Lashes Demos For Tinkering With Elmo Ruling

CHARLESTON, S. C.—U. S. District Court Judge J. Waties Waring gave a severe tongue lashing to South Carolina Democrats here in a packed court room Friday, for attempting to circumvent his ruling in the Elmore vs. Rice case one year and four days ago (July 12, 1947), and ordered primary books, closed since June 22, in most counties, reopened immediately.

**STERN AND FIRM**

Judge Waring delivered a scorching denunciation of party leaders who, despite his previous ruling, had set up a double standard by which whites could enroll to vote and Negroes were required to present the hard to get registration certificates.

Moreover, he ordered depleted an oath designed to restrict the number of Negro voters, which has kept the state teetering since May 19, date of the state Democratic convention.

**JAIL SENTENCE PENALTY**

Concluding his espousal, Judge Waring made it clear to party leaders that any further attempt to tinker with the court's rulings will draw jail sentences, without the fine in cash alternative.

Handling the case were Thurgood Marshall, chief NAACP attorney, and Harold R. Boulware of Columbia, state NAACP counsel. In a precedent-breaking step, Judge Waring requested Mr. Marshall to draw up an order in this case, which means that the final law on the primary system, conceived to rob Negroes of voting rights, will be written in fact by a Negro, a sort of ironical ending.

The case was brought by David Brown of Beaufort, a businessman and one of 38 persons whose names had been purged from primary books two weeks before, to the date. Defendants were chairmen and committeemen, as well as state leaders, in the Democratic party. They were represented by attorneys S. S. Tison and Robert McC. Figg, Jr.

Charges against the counties of Greenville, Spartanburg, Laurens, Pickens, Darlington and Jasper were dismissed by the court, all of whom were lauder by Judge Waring for not having obeyed party rules, under which Negroes retained essentially the same status they did prior to the Elmore ruling. Richland county wasn't named an original defendant, it having adopted enrollment rules similar to the counties against whom actions were dismissed.

**ENROLLING TO JULY 31**

Under the newest order, enrollment books in the 40 other counties must be opened until noon on July 31, during which time colored and white Democrats may enroll on a equal basis.

Nobody will be required to read and write, to show tax receipts or registration papers, in accordance with party regulations. The citizen needs only to present himself and his name, age, address and occupation. In the event he cannot write, he is allowed to mark a "x", the name being written in by the person in charge of the books.

**SEEK RECORD ENROLLMENT**

Progreessive Democrats reported Tues., that enrollment was moving along at a rapid pace. About 4,000 persons had enrolled in Charleston county out of an approximate 30,000 persons of adult age. Heavy enrollments were also reported from Sumpter, Orangeburg, Florence, Georgetown and several other counties.

Marlboro county, state senator Josiah J. Evans told the Lighthouse and Informer Monday, had its books opened all of last week but had not enrolled any Negroes for the reason that none had appeared.

Mr. Evans' statement was in reply to an inquiry by John H. Mc Cray, state PDP chairman, who said he had been told that enrollment books in that county were not in circulation.

Mr. Evans said the books were in the county courthouse and that as committeeman he was waiting service on the Judge's order, which he said had not been made by Monday.

However, it was hoped that at least 200,000 of the 381,000 Negro adults in the state would enroll by July 31.

**ENDS PRIMARY CASE**

The Brown case, thusly, writes the ending of a long fight, waged for nearly 30 years by southern Negroes, for the right to be Democrats.

# South Carolina Democrats Ordered to Enroll Negroes

### U. S. Judge Directs Party to Extend Race Full Rights and Warns Against Disobedience

From Wire Dispatches.

Charleston, S. C., July 16.—The South Carolina Democratic Party was directed today in a federal order to enroll Negroes and grant them full rights in party affairs.

William P. Baskin, chairman of the State Democratic Executive Committee who had led the Palmetto State delegation at the national convention in Philadelphia earlier this week in condemning civil-rights proposals, said the order "will be carried out fully."

**Warns of Imprisonment.**

The directive was contained in a preliminary injunction issued by Federal Judge J. Waties Waring upon petition of a Beaufort Negro, David Brown, who asked that Negroes be allowed to participate in the party.

"It's a disgrace and shame when you must come into court and ask a judge to tell you you are an American," Judge Waring snapped.

He warned 87 state and county party leaders, who were named defendants, that imprisonment awaited any party official who failed to comply fully with the spirit and letter of the decision.

Judge Waring asserted the order "will bar racial discrimination, . . . provide that the (party) books be opened to all parties regardless of race or religion, (and) will fix a reasonable time for the books to be opened."

**To Include Religious Groups.**

Judge Waring, member of a widely known Charleston family and himself a Democrat, added: "The time has come when racial discrimination in political affairs must stop."

"Let me tell you that any disobedience to the letter and the spirit of this ruling will result in contempt proceedings," he asserted. "The parties responsible for any violation will be punished by imprisonment."

He declared that he would include in his order a reference to the rights of religious groups. "If I don't," he observed, "next time the party, or some of the Jews they may bar some of the Roman Catholics."

In an even tone of voice he told the party leaders that they had failed to abide by the spirit of a decision of a year ago which gave a Negro petitioner of Richland (Columbia) County the right to take part in county party affairs.

**Praises Officials In 3 Counties.**

Through legislative action the Democratic leaders had sought to divorce the party from government and, in effect, render the party a political club limited to white members only.

Earlier in the hearing Judge Waring dismissed charges against party officials of Pickens, Laurens, and Greenville Counties so after the session was over. He declared: "If which had admitted Negroes to I don't," he observed, "next time the party, Judge Waring obthey may bar some of the Jews served: "I am glad to see that or some of the Roman Catholics." three counties have sense enough, In an even tone of voice he nerve enough, and patriotism told the party leaders that they enough" to proceed properly "in had failed to abide by the spirit the face of coercion." As the of a decision of a year ago which complaint was read, gave a Negro petitioner of Rich- Alan Johnstone, a candidate for land (Columbia) County the right Burnet R. Maybank's seat in the to take part in county party U. S. Senate, rose to speak.

**Is Hustled Out of Court.**

"This is not a political rally," Judge Waring snapped. Johnstone tried again and Waring said, "You are not going to be heard in this courtroom."

The judge glanced at the plaintiffs and a couple of them hustled Johnstone out of the court. Johnstone said later he was trying to file a paper in the case. He did

# Jimcrow Housing Trust Dissolved

NEW YORK—The Mortage Conference of Greater New York and aggregation of the biggest banks and insurance companies controlling 80 per cent of New York City's buildings mortages, was dissolved June 16, by order of U S. Judge John Knox. The court order also called upon the Mortgage Conference's member banks and insurance companies to halt restrictive practices in making mortgage loans.

This federal anti-trust case originally filed in June 1946, involved charges of maintaining racial maps of the city, refraining from making mortgage loans in Negro blocks and inducing real estate owners to bar Negroes. The defendants, without admitting the charges, agreed to the dissolution order. Throughout of the 2-year period since the case was filed the Workers Defense League and the Committee of Racial Equality campaigned to prevent it from becoming stalled and repeatedly called on the anti-trust division of the Department of Justice for a prompt prosecution.

# Segregation By Private Organizations Upheld

On the day that Judge J. Waties Waring handed down his expected order requiring the Democratic party of South Carolina to admit Negroes to participation in all party affairs on the same conditions as whites another Federal judge, Chief Justice Bolitha J. Laws of the District of Columbia handed down a decision holding that the Washington branch of the American Association of University Women could not be expelled from the national organization for its refusal to accept Negro members.

The controversy in Washington arose in October, 1946, when the Washington branch of the AAUW refused to admit as a member Mary Church Terrell, a Negro and a widow of a municipal court judge.

In December, 1946, the board of directors of the national association passed a resolution declaring that persons should not be denied membership on racial, religious or political grounds. The Washington branch held fast to its position and in 1947 amended its by-laws so its board of directors would have the power to pass upon all persons applying for membership.

The national organization thereafter notified the Washington branch that unless it "corrected" its by-laws by May 6, 1948, it would be expelled.

The suit resulted. It has now been decided by the granting of an injunction restraining the expulsion of the Washington branch.

Chief Justice Laws in his opinion said he had no doubt as to the right of the national organization to amend the by-laws to require admission of all races to all branches. But this was not the question. The national by-laws, which may be amended only by the national convention of the organization, had not been amended and the national directors acted beyond their powers in ordering the expulsion, Justice Laws declared.

Implicit in this opinion is the legal right of any private organization to bar any persons for religious, racial, politicial or other grounds, even when these grounds may have no relation to the purposes of the organization.

The law is still the law that racial or religious discrimination is not prohibited by the Fourteenth and Fifteenth amendments unless state action or state authority be involved. The Waring-Parker decisions in the Negro voting case in South Carolina were predicated on the theory that voting is a public function and that mere elimination of the state laws governing the primaries could not translate the Democratic party from a public institution, exercising a state-granted function, into a private organization. The real estate covenant cases were decided on the theory that enforcement by the state courts of racial covenants was itself a resort to state power. Racial covenants, the court pointed out, are still legal, if no state authority is called upon to enforce them.

Southern opponents of the proposed federal fair employment practices act would seem therefore to have the constitution on their side, as they claim. A business concern is a private organization—the only exceptions are federally-owned businesses such as T. V. A. and state-owned businesses such as Santee-Cooper and F. E. P. C might be held to be constitutional as applied to Santee-Cooper—but the courts will have to make new law to apply it to private business, will have to upset and reverse the civil rights cases.

# Court Rules Separate Diner For Negroes Not Discriminator

Baltimore, Sept. 27 (AP)—A U. S. district court ruled today the dining-car regulations on Southern railroads do not discriminate against Negroes.

The carriers in 1946 adopted a policy of setting aside for Negroes a table or two in a curtained or partitioned section at the kitchen end of dining cars.

Judge William C. Coleman and Judge W. Calvin Chestnut said in their majority opinion:

"Racial segregation of interstate passengers is not forbidden by any provision of the Federal Constitution, the Interstate Commerce Act, or any other act of Congress as long as there is no real inequality of treatment of those of different races."

They found the present regulation sets aside about 8 per cent of a dining car's capacity for Negroes and that Negroes make up about 4 per cent of dining-car patrons.

Circuit Judge Morris A. Soper said in his minority opinion: "Discrimination exists whenever a member of one race is denied service available to a member of another."

All three judges live in Baltimore.

The case they considered arose in 1942 when Elmer W. Henderson, a Baltimore Negro, asked for damages, charging he was denied dining-car service on a trip from here to Atlanta.

continued to sit at the table for about thirty minutes, but were not served lunch.

As they were leaving the car, Bishop Alleyne told the steward, who had been profuse in his apologies, that he had no quarrel with him. "Swell," said the steward, "shake hands." They shook hands.

Bishop Alleyne is the presiding bishop of the fourth Episcopal District of the AME Zion church.

In 1946, the Southern adopted the policy of partitioning off and reserving one table only for colored travelers exclusively at the kitchen end of the dining car.

Bishop and Mrs. Alleyne were denied service in a diner after waiting 30 minutes at a vacant table across from the JC table as they approached Manassas, Va., en route to Philadelphia from Knoxville, Tenn.

# Alleyne Case Dismissed By District Court Judge

WASHINGTON, D. C.—(NNPA)—Judge Alexander Holtzoff of the District Court last Wednesday followed the decision of the Fourth United States Circuit Court at Baltimore holding that dining car regulations on Southern railroads do not discriminate against colored travelers.

His decision was rendered in the case of Bishop and Mrs. Cameron C. Alleyne, who sued the Southern Railway for damages of $15,000 each. Judge Holtzoff dismissed their complaint.

Judge Holtzoff ruled that the Circuit Court at Baltimore had held that segregated facilities provided for colored passengers in dining cars on the Southern Railway afforded equality of treatment of white and colored passengers.

In 1946 the Southern adopted the policy of partitioning off an reserving one table only for colored travelers exclusively at the kitchen end of the dining car.

Bishop and Mrs. Alleyne boarded a Southern Railway train in Knoxville, Tennessee, on August 9, 1948, en route to Philadelphia, his home. The next day, near Manassas, Virginia, they entered the dining car on the last call for lunch and sat down at a vacant table across the aisle from the Jim Crow table, which was occupied. Another colored passenger, a Mrs. Tate from Knoxville, came in and sat at the table with them. At the time there were only about six white persons in the car.

The dining car steward came up and told the bishop that he and his wife could not be served at that table because of orders of company officials. Bishop and Mrs. Alleyne

# Court Dismisses Injunction Won by 21 Negro Firemen

The United States Court of Appeals yesterday vacated a temporary injunction granted a group of 21 Negro firemen who contended that they were discriminated against by the Brotherhood of Locomotive Firemen and Enginemen.

Through Chief Judge Harold M. Stephens, the appeals court said that the District Court here which granted the injunction did not have power to act on it. The unit should have been brought in Cleveland, Ohio, home office of the brotherhoood, it was said. The suit was ordered transferred there.

The firemen charged that the brotherhood and railroads have acted so as to jeopardize work and seniority rights for their group.

# D. C. Court Okeys JC on RR Diner

## Bishop, Wife Lose Suit Against the Southern

WASHINGTON (NNPA) — Judge Alexander Holtzoff of the District Court, on Oct. 13, followed the decision of the Fourth U.S. Circuit Court at Baltimore, holding that dining car regulations on Southern railroads do not discriminate against colored travelers.

His decision was rendered in dismissing the case of Bishop and Mrs. Cameron C, Alleyne, who sued the Southern Railway for damages of $15,000 each. The bishop presides over the Fourth District of the AME Zion Church.

The Circuit Court at Baltimore had held that segregated facilities provided for colored passengers in dining cars on the Southern Railway afforded equality of treatment of white and colored passengers.

**Partition Obnoxious**

# Southern Lines Segregation in Diners Upheld

## U. S. Court at Baltimore Rules Practice Does Not Deny Negroes of Rights

BALTIMORE, Sept. 27 (AP).—A United States District Court ruled today the dining car practices on Southern railroads do not discriminate against Negroes.

The carriers in 1946 adopted a policy of setting aside for Negroes a table or two in a curtained or partitioned section at the kitchen end of dining cars.

Judge William C. Coleman and Judge W. Calvin Chesnut said in their majority opinion:

"Racial segregation of interstate passengers is not forbidden by any provision of the Federal Constitution, the interstate commerce act, or any other act of Congress as long as there is no real inequality of treatment of those of different races."

**Arrangement "Seems Fair"**

They found the present practice sets aside about 8 per cent of a dining car's capacity for Negroes and that Negroes make up about 4 per cent of dining car patrons.

"This arrangement seems fair on its face," said Circuit Judge Morris A Soper in his minority opinion. "But it is based on the erroneous assumption that the rights which the 14th Amendment is designed to protect are racial rather than personal.

"Discrimination exists whenever a member of one race is denied service available to a member of another."

The point was made that Negroes often have to wait for seats in their space while tables are open in the other part of the car. The majority judges said this is a situation which might arise in both sections of the car.

All three of the judges live in Baltimore.

**Originated in 1942**

The case they considered arose in 1942 when Elmer W. Henderson, a Baltimore Negro, asked for damages on a charge that he was denied dining car service on a trip from here to Atlanta.

The Interstate Commerce Commission dismissed his claim for damages, but the three-judge District Court ruled in 1944 that dining car regulations did not give "substantial equality of treatment" to Negroes.

The railroads then started setting aside the special table or section. The I. C. C. found this adequate, but Mr. Henderson again appealed to the court. The case was heard in June.

# Dining Car Case Set For Appeal

## Attorney Holds Bus Decision Applies To Dining Car Case

*By NNPA News Service*

WASHINGTON, D. C.—The two to one decision of the Fourth United States Circuit Court of Appeals, holding that segregation of colored passengers behind a curtained partition in dining cars of the Southern Railway Company was legal, will be appealed to the United States Supreme Court.

Belford V. Lawson, attorney for Elmer Henderson, last Saturday said notice of appeal had already been filed with the Circuit Court at Baltimore.

"Constitutional rights are personal and not based on color," Mr. Lawson said. "We do not think there is any difference between interstate travel on buses or railroads, where the Federal Courts have held racial segregation illegal, and inter-state travel in dining cars, where the Fourth Circuit Court of Appeals has ruled segregation may be imposed.

**MORE ONEROUS**

"Segregation on dining cars is certainly more onerous, disadvantageous and burdensome than on buses. It is for a passenger to be required to shift his seat at the driver's direction when he is not dining. This is an experience to which no white passenger will be subjected. The law cannot do this because it prevents a single, uniform rule, there certainly can be no justification for a carrier imposing an inconvenience and

and held that the railway's practice of curtaining off one table for colored passengers was discriminatory and that when the Jim Crow seats were all taken passengers should be allowed to fill anywhere in the car.

The regulation providing for this seating arrangement in dining cars of the Southern was approved by the Interstate Commerce Commission. Mr. Henderson appealed to the Circuit Court.

After this decision, the Southern decided to put up wooden partitions and reserve one table only where it formerly had re-

# Jim-Crow Legal

Cleveland Gazette

## JIM CROW ON SOUTHERN DINING CAR NOT ILLEGAL SAYS UNITED STATES DISTRICT JUDGE

Sat. 10-30-48

WASHINGTON, Oct., — (Special) — Judge Alexander Holtzoff of the District Court here last Wednesday followed the decision of the Fourth United States Circuit Court at Baltimore, holding that dining car regulations on Southern railroads do not discriminate against colored travelers.

His decision was given in the case of Bishop and Mrs. Cameron C. Alleyne, who sued the Southern Railway Co., for damages $15,000 each. Judge Holtzoff dismissed their complaint. He ruled that the Ciriuit Court at Baltimore had dismissed int. He ruled that the Circuit Court at Baltimore had held that *segregated facilities provided for colored passengers in dining cars on Southern Railway afforded equality of treatment of white and colored passengers.

In 1946 the Southern adopted the policy of partitioning off and reserving one table only for colored travelers, exclusively at the kitchen end of the dining car.

Bishop and Mrs. Alleyne boarded a Southern Railway train in Knokville, Tennessee, August 9th, 1948, en route to Philadelphia, their home. The next day, near Manassas, Va., they entered the dining car on the last call for lunch and sat down at a vacant table across the aisle from the jim-crow table, which was occupied. Another colored passenger, a Mrs. Tate, of Knxville, came in and sat at the table with them. At the time there were only about six white persons in the car.

In time, the dining car steward came up and told the Bishop and his wife that they would noto be served at that table, because of orders of company officials. The Bishop and his wife continued to sit at the table for about 30 minutes, but were not served lunch. As they were leaving the car Bishop Alleyne told the steward who had been profuse oiin his apologies, that he had no quarrel with him. "Swell," said the steward, "shake hands." They shook hands.

Sat. 10-30-48

Bishop Alleyne is the presiding bishop of the fourth Episcopal District of the AMEZ Church.

# West Virginia City Ordered To Open Swimming Pool To Race

CHARLESTON, W. Va.—(ANP) Declaring that although the pool was operated by a private group, the city pool was public property, was operated by a private group, Judge Ben Moore of the U. S. District court here ordered the city of Montgomery to open its swimming pool to Negroes whenever it is open to public use.

The suit against the city was filed by Paul Lawrence of Montgomery who claimed that his and other Negroes' constitutional rights were being denied in the use of the pool although it was financed by funds raised by a public bond issue together with federal funds.

The story behind the trial began in February, 1946, when the city leased the pool to the Montgomery Park association and renewed the lease for 1947. On June 5, 1947, Lawrence and four other Negroes applied for and were refused season tickets to the pool at $7.50 each. No Negroes have ever been permitted to use the pool.

**Attempt to Deprive**

In his decision the judge said that Montgomery's action was one of those "many white communities have employed in attempting to deprive the Negro of his constitutional birthright, the equal protection of the laws.

"Having set up the swimming pool by authority of legislature, the city, if the pool is operated," he added, "must operate it itself, or, if leased, must see that it is operated without any such discrimination."

T. G. Nutter was Lawrence's attorney, and the Montgomery branch NAACP and 10 local groups spearheaded the suit.

# School Segregation Laws in Texas Upheld

WACO, Tex.—Judge Ben H. Rice in Federal District Court, on Sept. 1, signed a declaratory judgment upholding the school segregation laws of Texas.

He entered the judgment in the suit of C. G. Jennings of Hearne who had asked that his daughter, Doris, 16, either be admitted to the white school at Hearne or that equal educational facilities be furnished her at the colored school.

# Order Against Firemen Reversed

RICHMOND, Va.—(NNPA)— The Fourth United States Circuit Court of Appeals has reversed a decision of the United States District Court here ordering Charles H. Houston and Joseph C. Waddy, Washington attorneys, from prosecuting a suit brought by three colored locomotive firemen against the Seaboard Air Line Railroad Company in the District of Columbia.

The two lawyers were enjoined by Federal District Judge Albert V. Bryan on June 8, last from prosecuting the suit brought by George Palmer, a fireman on the Southern Railroad; Adam Wright of Tampa, Florida, a fireman on the Seaboard and Eugene Carter of Manchester, Georgia, a fireman on the Seaboard.

Judge Bryan ruled that the Palmer case was an enlarged reiteration of a suit brought by David H Hinton of Raleigh, North Carolina a fireman on the Seaboard, in the Federal District Court of Norfolk Va., and that the three plaintiffs in the District of Columbia case should have intervened in the Hinton suit.

**NOT THE TYPE**

In reversing Judge Bryan, the Circuit Court of Appeals that the Palmer case was not the type of suit where the court's control over property subject to its jurisdiction might be interfered with by proceedings in another tribunal, nor was it one in which its ability to properly adjudicate the questions before it could be in any way interfered with by proceedings in the Palmer case.

It is perfectly clear, said the appellate court, that the two suits are not between the same parties and do not involve the same relief. While both are class suits, the case at bar is brought only in behalf of colored firemen employed by the Seaboard, and only against that railroad and the Brotherhood of Locomotive Firemen and Engine men, their representative, the appellate court said.

It pointed out that the Palmer case was brought on behalf of all colored fremen employed by the three great railroad systems of the Southeast--the Southern, the Seaboard and the Atlantic Coast Line and was brought against all three railroads and the Brotherhood as case was brought on behlaf of all the firemen employed by all of them

'It is for the plaintiff, not the defendant railroad, to say what relief they would ask with respect to the violation of their rights by the agrements of 1941 and 1942," said the appellate court, "and there is nothing in law or common sense which precludes them from seeking in another jurisdiction relief from other violations of their rights."

# FEDERAL COURT RULES AGAINST NEGRO ENTRY AT KENTUCKY UNIV.

**LOUISVILLE — (ANP) — Federal Judge H. Church Ford dealt the attempts of Negro teacher Lyman T. Johnson to enter the University of Kentucky a severe jolt last week as he ruled against the applicant.**

**The judge quashed a default judgement asked by Johnson who claimed that the board of trustees of the university had failed to answer a summons he had filed within the allotted time. The judge ruled that Johnson's notice had never been served on the school.**

**The plaintiff's attorneys then filed an amended petition naming the board and Gov. Earle Clements as defendants. This will reopen the suit.**

**The university has refused Johnson's applications twice because of the state's Day law which prevents the races from attending the same schools.**

# Negro Is Made U.S. Court Crier

CHARLESTON, S. C.—A distinct bane to lily-whiters in his state and in other parts of the South, Federal Judge J. Waites Waring, a Democrat, threw more fat into the fire last Friday when he appointed a Negro, John Fleming as his court crier. The new appointee is a former shoe repairman.

The last Negro court crier was Henry Farms, who was named by a Republican judge.

## Death Sentence Upheld

WASHINGTON

The U. S. Court of Appeals yesterday upheld, 2-to-1, the murder convictions of three Washington Negroes condemned to death in the murder of a white man during a hold-up. Judge Henry J. Edgerton who dissented said the men were "plainly guilty," but said their convictions should have been set aside because Negroes were excluded from the trial jury. 7-6-48

# Carolina Can Vote

California Voice

## RIGHT TO VOTE WON IN SOUTH CAROLINA

San Francisco, Calif.

Fri. 2-30-48

CHARLESTON, S. C., July 22—Negro citizens of South Carolina have been assured of the right to vote in the Democratic primary and the general election this year by a decision handed down by Federal Judge J. Waties Waring of this city.

Judge Waring's decision, handed down on July 16 in response to a petition presented by NAACP lawyers in behalf of David Brown and other qualified Negro electors, granted an injunction requiring the Democratic Party of South Carolina to enroll Negroes with full rights to participate in party affairs. 2-30-48

In granting the petition, Judge Waring issued a forthright statement. "My order will grant a prayer for a preliminary injunction," he said. "It will bar racial discrimination and provide that the books be open to all parties regardless of race or religion . . . Failure to comply, he warned officials of the South Carolina Democratic Party, "will result in contempt proceedings."

Turning to Mr. Brown, Judge Waring said:" It is a disgrace and a shame to have to come into the court and ask the judge to tell you you are an American."

Commenting on Judge Waring's decision, Walter White, secretary of the NAACP, declared: 'Judge Waring's action in granting a preliminary injunction against the state and county chairmen of the South Carolina Democratic Party is a natural follow-up of his recent decision in the case of *Elmore v. Pice*, stemming from Richland, S. C., which decision was upheld by both the Circuit Court of Appeals and the U. S. Supreme Court.

"This decision means that Negroes in South Carolina may not be denied the right to enroll and vote in the Democratic Party because of their race or color, nor may unreasonable tests be required of them.

"The opinion is significant because several other southern states were waiting upon the South Carolina experiment to shape their own policies. Judge Waring is to be congratulated for his uncompromising ruling."

# Twiggs Board Directed To Enroll Negroes

BRUNSWICK, Aug. 13—(AP)—Federal Judge Frank Scarlett today directed the Twiggs County Board of Registrars to proceed with the registration of Negroes as voters without discrimination because of race.

The action by Judge Scarrett came in a pre-hearing conference between attorneys for the defense and plaintiffs and the case was left open upon the registrars' agreement to adhere to the law.

The suit was brought by Edward Glover, David A. Glover, Mathew Glover, Sr., and Mathew Glover, Jr., and accused the registrars of failing to register Negroes as voters.

Defendants in the case were C. S. Kitchens, G. F. Benjamin and D. Y. Califf, members of the Twiggs County Registrars.

The Registrars said they thought they were adhering to the law in the registration of Negro voters and in purging present registration lists.

With consent of counsel, Judge Scarlett directed that the registrars proceed without discrimination because of race and said the case would be left on the records in event of further complaint.

The Glovers' suit was brought on behalf of 900 Negroes in Twiggs County. Attorneys for the plaintiffs were T. W. Johnson and Virgil Shepard, Macon.

The registrars were represented by R. A. Harrison, Charles J. Bloch, C. Baxter Jones and Denmark Groover.

# Analysis Of Pay Of All Principals Is Requested

Daily World 12-C Atlanta, Ga. Fri. 7-9-48

By C. LAMAR WEAVER

In what appeared to be the final showdown of the city teachers' equal pay suit big legal guns exploded Thursday before the U. S. District Court Judge E. Marvin Underwood, as salvos of charges and counter-charges quaked the very foundation of the somber courtroom, leaving in its wake increased consternation and anxiety among both factions of the embittered forces.

When the din of battle had ceased, and the opposing generals had recalled their remnants, Magistrate Underwood, who had ordered a reargument in the case, began peering into wisps of smoke and razed super-structrue to offically determine the victor and vanquished.

Filed seven years ago by attorneys in behalf of plaintiff Samuel L. Davis, local teacher, and other Negro teachers similarly situated, the suit was brought against defendants Miss Ira Jarrell, Superintendent of Public Schools. and the Atlanta Board of Education, charging them with 'practicing racial discrimination in teachers' pay. As such, the plaintiffs seek to enjoin the defendants from rating teachers with the currently employed track -step system.

**ATTACK ANALYSIS SAMPLING**

Representing the defendants, Attorneys E. D. Murphy and J. M. B. Bloodworth renewed their attack on the system used by the defendants in selecting names of teachers white and colored, in a comparative analysis which they claimed showed discrimination in pay because of race. In addition, the defending attorneys leveled an attack on the personal qualifications of the key plaintiff, Mr. Davis.

Fac.

The legal battery for the plaintiffs comprised Attorneys A. T. Walden, Edward R. Dudley, of New York, and Oliver W. Hill, the latter recently elected to the City Council of Richmond, Va.

7-9-48

**"PLAIN AS DAY"**

They contended that the conspicuity of race pay discrimination laid to the defendants overshadowed any method of selecting names for the comparative study, implying that bias because of race was as "plain as day."

Attorney Walden declared the same pattern of discrimination exists today as did exist when the Education Board used separate scales for Negroes and whites prior to 1944, at which time there was a change-over to the intricate.

"Only Miss Jarrel, and she alone, is familiar with the operation of gulf in salary differentiation between Negroes and whites, a mere the track-step system, because it was a hedge she could hide behind to practice discrimination."

**NEW COMPLEXITY ARISES**

A new development arose when the judge and the opposing attorneys questioned what would be the proper legal interpretation of the case if evidence showed no discrimination against Davis, and yet such discrimination was evidenced among other white and Negro teachers of same qualifications used in the examination.

Daily World

The judge and the defense lawyers would advance no speculation on the question, but Walden again retorted that Davis was merely a named plaintiff in the suit and if the evidence showed an appreciable explanation of intangible qualities would not substantiate the defendants' cause. As such a decision should be ruled in favor of the teachers, he added.

7-9-48

Daily Worker 7-8-48

**Defense Stresses Intangibles**

Attorneys Bloodworth and Murphy had argued that degrees and experience alone were insufficient to rate a teacher effectively. Intangibles such as personalities and methodis of teaching are important determining factors in rating teachers, they declared as a nod of approval came from the judge.

Atlanta, Ga.

J. B. Blayton, Certified Public Accountant employed by the plaintiffs, was put through a gauntlet of questions by both the defending attorneys and the presiding judge. Both questioned the accountant's deviation from selecting a constant percentage of group samplings used in his analysis.

7-9-48 Fac.

The accountant explained that in selecting a larger percentage from schools with fewer teachers the more accurate sampling would be.

Fac. 7-9-48

**DUDLEY CITES BIAS EXAMPLE**

Attorney Dudley asked why was it that one-half of the white high school teachers received salaries ranging from $3,000 yearly bracket and up when not a single Negro High School teacher was in that bracket. Answering himself, he charged that it was due to racial discrimination alone.

**MISS JARRELL TESTIFIES**

In analysing Mr. Davis' personal qualifications, Miss Jarrell inferred that he lacked the initiative and ambition expected in a good teacher and as such did not receive pay increase as rapidly as he might have

In the course of her testimony she shifted invariably to reference of intangible qualities in rating teachers while under cross-examination by Attorney Hill.

When asked the pointed question what Negro teacher she considered as a good teacher, she replied "Floyd W. Sullivan", a member of the Washington high school staff. In her reply she placed emphasis on the "good Negro teacher."

Daily Worker

Atlanta, Ga.

In terminating the argument, Judge Underwood requested the plaintiffs to file before July 2 a stipulation of an analysis of the pay of white and Negro high school principals.

Fac. 7-9-48

# 7-Year-Old Teachers' Case In U. S. Court

Daily World Atlanta, Ga. Sun. 7-4-48

## Statistics Show Disparity In School Salaries

A seven-year-old suit which alleges that the Atlanta board of Education has practiced racial discrimination in its pay scale for Negro teachers is scheduled for a second airing Thursday morning July 8, at 10 A. M. before U. S. Judge E. Marvin Underwood in Federal Court, at the Old U. S. Postoffice Building.

Petitioners in the suit charge the Atlanta Board of Education, and Supt. Ira Jarrell with violating their constitutional rights by resorting to technicalities to deny them pay com parable with that paid white teachers for the same services.

Plaintiffs in the civil suit are Samuel Davis and other Gate City teachers, who through their Attorneys A. T. Walden, Edward R. Dudley and Oliver W. Hill, the latter recently-elected to the City Council in Richmond, Va., are seeking to enjoin the Board of Education from such tactics.

Daily World

Statistics compiled by the Atlanta Teachers Union reveals that the average basic salary of white elementary school teachers was $160 compared with $112 for Negro teachers. In high schools the differentials between white teachers who earned $198 in comparison with $140 for Negroes were cited as examples of the Board of Education's discriminatory practices.

At the opening of the case last Nov. 10, before Judge Underwood, the plaintiffs had inserted into the records the finding of J. B. Blayton, Certified Public Accountant, whose report revealed a gross disparity in race pay on all levels in the school structure.

Miss Ira Jarrell, supt. of schools, staunchly defended the Board of Education's pay scales. Her testimony revealed at that time that most Negro teachers were paid under the state schedule while relatively few whites were confined to this scale. This pay scale, she asserted was predicated upon attendance figures.

Atlanta, Ga.

Almost two full days of questioning brought the enlightment from Miss Jarrell that where discrimination in teachers salaries, existed it was based "upon the individual's performance and not race."

Sun.

**URGE ATTENDANCE**

Atlanta teachers are urging teachers, parents and community-conscious citizens, white and Negro, to attend the hearing on July 8.

They cite the fact that the condition of Negro schools and the status of Negro teachers affects the whole community.

7-4-48

In the recent slaying of two youths on the Westside, blame was credited in many sources to futility and frustration felt by many teachers in crowded Negro schools, who are underpaid because of the Atlanta Board of Education's bizarre and discrimatory pay scale which is based on intangibles and factors almost beyond the comprehension.

## Judge's Order Opens Golf Courses To Negroes

BALTIMORE, July 13—(AP)—A federal judge has issued an injunction order which, in effect, requires the city to let Negroes use three public golf courses heretofore reserved for white persons.

The order was signed by Judge W. Calvin Chesnut in a case brought against the city by Charles E. Law, a Negro.

Issued yesterday, it restrains the city from enforcing a regulation which reserves the courses for white players. It permits "either party in interest to apply for amendment, enlargement or modification" of the order.

The judge ruled Negroes are entitled to use all four city courses. He held facilities at the one course reserved for Negroes are not "substantially equal" to those afforded white golfers.

Judge Chesnut's injunction said the Mayor and City Council and Board of Recreation and Parks cannot deny the use of any public course "under the present unqualified, prohibitory regulation" that excluded Negroes.

"The order will be carried out as interpreted," said R. Brooke Maxwell, Director of Recreation and Parks. "I am not going to defy an order of the Federal government, It means that any one of any race presenting himself at these courses must be sold a ticket."

Judge Chesnut suggested that some compromise might be worked out so that Negro golfers could use the courses only during certain hours or on certain days.

## One Judge For One Against Jim Crow

BALTIMORE —(ANP)— There ought to be a law against conflicting laws— one that would solve the idiotic situation which arose here last week.

While a federal judge ordered the opening of three exclusively white Baltimore public golf courses to Negroes, a police magistrate bound 21 white and colored persons over to the grand jury for participating in mixed doubles on tennis courts in violation of state segregation laws.

Judge W. Calvin Chesnut issued an injunction restraining the city from enforcing a park regulation reserving three golf courses for white persons, in support of a complaint against the city by Charles E. Law. He ruled hat Negroes are entitled to play golf on all four of the municipal courses and said that facilities at the Carroll Park course for Negroes are not "substanially equal" to those for white golfers.

**13 ARRESTED**

At variance to this idea was the arrest of 13 Negroes and 11 whites, all members of the Maryland Progressive party, who sought to put the local park board's racial segregation policy to a test. They had decended upon Druid Hill park and began tennis matches but the Negroes in the group refused to leave the park when ordered to do so by police. A crowd of about 500 gathered to watch the incident. When police moved in and started to force the Negroes out by picking some of them up bodily, and carrying them to patrol wagons, some of the spectators shouted, "Is this America or Nazi Germany?"

Twenty tennis players were arrested and then four spectators were hauled in. Most of them were charged with disorderly conduct and violation of segregation regulations. One was charged with resisting arrest.

Fourteen were released, three held on $250 bail for disorderly conduct in the park and four saddled with a similar charge for demonstrations in front of a police station later. One of the Negroes orginally arrested was dismissed.

## Negro Golfers Play on White Baltimore Links

Baltimore, July 13 (AP).—Negroes started playing golf today on the three municipal courses from which they had been excluded. A Federal Court order opened the links to them.

Judge W. Calvin Chestnut issued the order to enforce a ruling he made June 18 on a case brought by John E. Law, Baltimore Negro.

Law complained that the nine-hole municipal course maintained for Negroes at Carroll Park was not as good as the 18-hole layouts for whites at Mount Pleasant, Clifton and Forest Park.

"The order will be carried out as interpreted," said R. Brooke Maxwell, director of recreation and parks. "I am not going to defy an order of the Federal Government.

"It means that anyone of any race presenting himself at these courses must be sold a ticket."

## Baltimore Negroes Use City Golf Links

### Judge Enforces June 18 Anti-Exclusion Ruling

BALTIMORE, July 13 (AP).—Negroes started playing golf Tuesday on the three municipal courses from which they had been excluded. Federal Judge W. Calvin Chesnut issued an order to enforce a ruling he made June 18 on a case brought by John E. Law, a Baltimore Negro. Mr. Law complained that the nine-hole municipal course maintained for Negroes at Carroll Park was not as good as the eighteen-hole courses for whites at Mount Pleasant, Clifton and Forest Park.

Freed
New York Age

DOXEY WILKERSON

Sat 7-3-48

# Doxey Wilkerson And 2 Others In Yergan Complaint Are Freed

New York Age

Ruling in Lower Manhattan Court that a "prima facie case has not been made out" Magistrate John E. Prendergast on Monday freed three men accused of simple assault by Dr. Max Yergan, executive director of the Council on African Affairs.

Sat 7-3-48

The trio, whose arrests took place on June 18th in the Council's offices at 23 West 26th street, are Dr. Doxey Wilkerson, 43, former editor of Yergan's newspaper, The People's Voice, and now on the Jefferson School of Social Science; Harold Cammer, 39, attorney for the group opposing Dr. Yergan in the Council ,and Thomas Lloyd, 59, who said he had been hired as a guard.

7-3-48

In dismissing the case, Magistrate Prendergast commended both sides for their straightforward testimony and observed that "both sides appear to be men of some station in life and in the community." The defendants indicated that they would not file counter-charges of assault against Dr. Yergan.

The trouble arose when right-wing and left-wing factions of the Council differed on matters of policy.

# Refuses to Admit Negro Student on Unsegregated Basis

Pittsburgh Courier
Pittsburgh Penn
Sat-12-4-48
12c

OKLAHOMA CITY—(ANP)—A three-judge Federal court which ruled for the admittance of a Negro into the University of Oklahoma recently, last week ruled against the same Negro in his attempt to attend classes on an unsegregated basis.

The Federal court declared that G. W. McLaurin was receiving equal educational opportunities with those of whites despite the fact that he was being segregated from his classmates.

According to the court it is within the power of the State to recognize racial distinctions between its citizens and to classify them."

McLaurin, a retired professor, was admitted to the school last month on order of the same court. He is seeking to earn his Ph. D. in education.

**STATE LAWS BACKED**

Of the State segregation laws which the court opposed in its September ruling, it said they have not been stripped of their ability to express the public policy of the State in respect to matters of social welfare.

"We conclude, therefore, that the classification based upon racial distinctions, and recognized and enforced by the regulations of the University of Oklahoma, rests on a reasonable basis, having its foundation in the public policy of the state, and does not, therefore, operate to deprive this plaintiff of equal protection."

Oklahoma statutes forbid Negro and white students to attend the same schools.

McLaurin has been attending classes, sitting in an adjoining room which permits him to see and hear the professor.

The court's answer to the 54-year-old Negro's plea was an interpretation of its decision last September which allowed McLaurin to enter the university's graduate school.

## Segregation in Oklahoma

The Negro won an important victory in Oklahoma on Wednesday. A retired professor, G. W. McLaurin, desiring to pursue his professional studies in education toward a doctorate, had applied to enter the graduate school of the University of Oklahoma. His rejection came as expected, not because the university authorities were drawing their own color line, but in obedience to the state's strict segregation statutes. Langston University, the only institution for Oklahoma Negroes who wish to advance beyond high school, offers no courses in education. The Negro professor, although intellectually and professionally qualified, was effectively barred by the color of his skin from pursuing a tax-paid education of his choice. The remedy was swift. A Federal court of three Oklahomans ruled that the state's segregation, as applied in this case, breached the Constitution. Oklahoma was declared constitutionally obliged "to provide the plaintiff with equal facilities as soon as to other students," words which closely follow recent utterances of the Supreme Court. Governor Turner promises that the offending statute will be amended, and Professor McLaurin expects to be enrolled soon at the University of Oklahoma.

Herald-Tribune

The Oklahoma decision sets a clear pattern and precedent. By its practical statement, segregation in education on the professional and graduate level suffers a serious dent. The state may, if it chooses, maintain an elaborate set of specialized and segregated schools, all on ice, ready instantly to offer their "equal facilities" and begin educating the Negro applicant for courses in education, architecture, law, electrical engineering, medicine, agronomy, dentistry, and so on. Otherwise the state must admit the qualified student, black or white, to existing educational facilities without any stalling blather about segregation.

Everywhere that segregation is a first-rank problem the Negro needs and is demanding specialized education. The issue presses for solution. We can hardly expect settlement in one great breath, but beginnings must be made. The Oklahoma court intelligently points the way.

# Deny Negro's Plea for Segregated Classes

Courier Journal
Louisville Ky

[illegible], Nov. 22 (AP)—A three-judge Federal Court today [illegible] plea to attend classes at the University of Oklahoma on a segregated basis.

[illegible] G. W. McLaurin, graduate work in the [illegible] month—the first of his race ever to attend the State university at Norman.

The court ruled the retired professor is receiving equal educational opportunities with those of white students and added it is within the power of the State to recognize racial distinctions between its citizens and to classify them."

McLaurin—seeking a doctor's degree in education—was ordered admitted to the university last September by this same court. The three judges held Oklahoma's segregation laws unconstitutional and void in McLaurin's case. The university's regents then ordered McLaurin admitted on a segregated basis.

## Judge Waring's Ruling

Daily World 12c

Federal District Judge J. Waites Waring has ruled that the Democratic Party of South Carolina can no longer refuse to register and enroll the names of Negro Democrats on its books, and that failure to do so in the future will result in sentences to the penitentiary.

"It is a disgrace and a shame when you must come into court and ask a judge to tell you that you are an American," Judge Waring said, and "the time has come when discrimination in politics must stop," accordingly, the Judge fixed a reasonable time in which Democratic leaders may open the books and receive Negroes into the ranks.

Atlanta, Ga.

Coincident with this ruling by Judge Waring, was the action taken by the National Democratic Executive Committee at Philadelphia, when it adopted a unanimous resolution which recommended that the rules committee draft a rule requiring that every state permit its members to participate in its party affairs in compliance with the various court decisions "without regard to race, color or religion."

Such a rule would not only inure to the advantage of Negroes having full and equal representation in local Democratic organizations, but will also serve to reduce to a minimum the number of contests to be decided by the National Committee, as has been the case every four years.

Sun. 7-18-48

The ruling by Judge Waring is a forwa d step, which should be as natural and free as the air we breathe, since citizenship rights are taken for granted in this age, save in too many of the Southern states. The Judge is correct when he says its a shame that a citizen must come into court and ask a judge to tell him that he is an American. That, as shameful as it may be and we do not minimize its shame in the least, is what the Negro must do in the matter of fair pay for equal work. He must go to court to ask if he can vote. He is having to spend expensive sums to stop the purge movement after the courts declare and establish his rights to vote. Indeed, there are few instances in the South where Negroes get a fair and equal share in the public facilities unless and until he succeeds in bringing it about through court action. The whole fight against civil rights in the South is based on the fact that white southerners for the most part, are unwilling to accord to Negroes a fair and equal participation in travel, in school facilities, in work opportunities, in salaries and in virtually every other avenue of endeavor. We applaud the action of Judge Waring, therefore and urge similar action in other states of the South.

# U. S. Court Orders Democrats To Let S. C. Negroes Enroll

Columbia Record

## Leaders To Appear July 16 At Hearing On Injunction

Columbia S.C.

CHARLESTON, July 8—(AP)—The South Carolina Democratic party was ordered today by U. S. District Judge J. Waties Waring to permit Negroes to enroll in party clubs on the same basis as whites pending the outcome of a hearing July 16 of a Beaufort Negro's request for a preliminary injunction against the party.

The temporary restraining order was granted by Judge Waring who at the same time ordered party officials to appear in Charleston July 16 to show cause why the preliminary injunction should not be granted. Wed 7-8-48

The action was brought by David Brown, a Beaufort Negro, who asserted that he had been denied the right to enroll in a party club because of "race or color." He was represented by Thurgood Marshall, general counsel for the National Association for the Advancement of Colored People, and Harold R. Boulware, Columbia Negro attorney.

The complaint named W. P. Baskin, state executive committee chairman, every member of the state executive committee and the chairmen of every county party except Richland county.

It asked that the court grant a permanent injunction "forever restraining and enjoining" the defendants from refusing to enroll Negroes who are qualified electors to vote in the primaries.

In other words, whtie persons would qualify by enroling, and only those Negroes holding general election certificates (making them qualified electors) could vote.

Several counties, including Richland, defied the convention's rules and permitted Negroes to enrol. Efforts of party leaders to bring such counties back within the state party's rules have failed so far.

Today comes the court order requiring that Negroes be permitted to enrol throughout the state.

All efforts early this afternoon to reach W. P. Baskin, of Bishopville, chairman of the state party, were unsuccessful. Telephone lines are down near Bishopville as a result of a hail and wind storm. As a result, there was no immediate reaction from top party officials.

The assumption among students of the situation here is that the court, looking to the future, would not have ordered the party to allow Negroes to enroll now if it does not intend to make that a permanent order. Columbia S.C.

It is also assumed here that even though the books have been closed in most counties, the Waring order automatically requires that they be re-opened. This, apparently, was not stated in so many words in the Waring order.

Meanwhile, Chairman Baskin and many other party leaders, including some of the county chairman named in the Waring order, are preparing to leave for Philadelphia to attend next week's national Democratic convention. Thu. 7-8-48

The convention opens Monday and it is believed it will run well into the latter part of next week. The hearing on the Waring order is set for next Friday.

Columbia Record

## Imprisonment Threatened For Violators

Columbia S.C.

### Judge Scolds S. C. Democrats

By BLANCHE GIBBS
Record Staff Correspondent

CHARLESTON, July 16—Negroes today won a legal battle for full participation in the South Carolina Democratic party as Federal Judge J. Waties Waring threatened imprisonment for discrimination.

Waring rapped a large segment of the party for violating the "spirit" of a previous suit in which Negroes were granted voting privileges.

He said he would issue an order tomorrow or Monday specifying that Democratic party enrolment books remain open through July 31, noon, for whites and Negroes. His order will specify that there be no discrimination because of race, creed or beliefs. Tue. 7-16-48

As Waring lashed out at 41 counties in the state for banning Negro enrolment, he commended four counties for their patriotism and "sense" in not discriminating against Negroes.

"The time has come when racial discrimination in political affairs must stop," the judge declared. He said that the courts had nothing to say on racial relations socially.

**Takes Issue With Oath**

"American citizens must be treated on equality when it comes to electing Presidents, vice presidents and other officers." The judge took issue also with the Democratic party voting oath, branded by opponents as a "thought-control" pledge.

Waring said candidates could have platforms but that they did not have to take an oath to run for office or to vote.

"Thank God for Greenville, Laurens, Pickens and Jasper counties for some men who put their feet on the ground and said we are going to obey the law. It's a disgrace and a shame that you have to come into court and ask a judge to tell you to be American citizens. The law of the land is supposed to be obeyed. 7-16-48

**Prison Threatened**

And when this order is handed down, any disobedience of the letter or the spirit will be in contempt of court. "Violations will be punishable by imprisonment."

Waring indicated the terms of his order after S. S. Tison, attorney for 41 counties, asked that he specify the intent of the court.

Waring's decision followed a suit brought by David Brown of Beaufort for enrolment in that county's Democratic books.

The party rules permitted Negroes voting privileges in the primaries but denied them the right to enrol which is necessary to participate in party affairs.

**Only Two Witnesses**

Only two witnesses appeared in the case today, William P. Baskin as chairman of the Democratic party, and Brown as plaintiff.

Proceedings against Jasper county dismissed court
Against Greenville,
Laurens counties en-
they had complied
of a previous suit in
were granted voting
the Democratic pri-
marries.
except for one
which has
not been acted upon by that coun-

Tison, attorney for the party, favor the rules of the Progressive Democratic party Pickens, and
rolment or on the oath but that a
majority ruled in the executive com-
mittee.
Judge Waring dismissed court proceedings against Brown admitted participating in
Brown admitted that he did not

ty's executive committee.

Speaking of Greenville, Laurens, and Pickens counties, the judge said, "It is extremely gratifying to me—although they are only three and I feel ashamed of the others—that these counties recognize the opinion not only made by me but upheld by the Supreme Court and the supreme governing law of the land.

"I am proud to see these counties have the sense enough, the nerve enough, and the patriotism enough to make a true, just and favorable decision.

"I'm glad to see that some of our citizens realize that this country is of Americanism and not for persecuting a minority."

**Hope For Publicity**

Judge Waring expressed a hope that the press would publicize these counties.

Regarding Jasper county, Judge Waring said it had taken a "unique and fair, at least to me, position in the case."

Jasper, having no enrolment, is permitting voting by presentation of registration certificates.

They have conformed to the spirit of the case and this court in that they are making no discrimination."

The judge dismissed the cases of Greenville, Pickens and Laurens but said Jasper county was concerned for the oath.

Alan Johnstone of Newberry, candidate for the United States Senate, sought unsuccessfully to be heard in the courtroom in "his own behalf."

Waring dismissed him abruptly with an adminishment "to get your soap boxes on the street not in the court room."

"This court is for judicial proceedings not a campaign speech," Judge Waring declared.

When Johnstone protested and sought to be heard anyway, the judge ordered a baliff to seat him and to take him from the courtroom if any disturbance were created.

**Johnston Ejected**

At the end Johnstone rose again. "You are not going to be heard in this courtroom," Waring declared. Two bailiffs then ejected the candidate forcibly out the door.

Johnstone, from Newberry and former attorney for the Federal Works administration, said he was trying to file a paper, asking to present an argument on the subject since he was a senatorial candidate.

He filed the paper later with Ernest Allen, clerk of court.

The courtroom in the federal building was jammed at 10 a. m. as Judge Waring appeared to take the bench. Negroes and few white spectators packed the benches in the rear of the room, filled all standing space and overflowed in the corridors.

State party chairman Baskin's testimony was marked by close and pointed questioning by the judge himself.

Under questioning by the Judge and by Negro lawyer Harold Boulware, Baskin exhibited some confusion.

Both the judge and Boulware questioned Baskin exhaustively on his authority within the party and his authority to make certain changes in party rules which the state committee chairman described as "minor."

Baskin told the court he had no authority to order changes in party rules. 2-16-48

Later he admitted that he had ordered the voter's oath changed to eliminate religious segregation references and drop the word "understand" from the text.

"In other words, a man must swear to something he doesn't understand?" the judge asked.

Baskin said he believed the changes to be immaterial.

"But you are going to make people generally swear to believe something they don't understand?" Judge Waring asked.

He went on to question Baskin as to his part in drawing party rules which ignored the ruling in the Elmore case.

The testimony was interrupted by an objection from defense lawyer Sidney Tyson.

"I am going to ask anything I want. Now sit down," the judge snapped.

Baskin finally made a flat denial of any part in the making of the rules. Fri. 2-16-48

Granted voting privileges by the State Democratic Convention following a Supreme Court order, Negroes have resumed their battle for full party membership.

David Brown, Beaufort county Negro, brought suit against 87 state Democratic officials in 45 counties to open party books to Negroes.

Judge J. Waties Waring, federal judge who handed down a decision enfranchising Negroes in Democratic primaries, ordered the officials to appear here today to show cause why the party should not be permanently enjoined from banning Negro enrolment.

The Waring decision, upheld by the fourth circuit court of appeals, was later affirmed by the Supreme Court, which refused to hear oral arguments on the case.

Richland county, where the original suit was brought by George Elmore, was exempt from Brown's suit because it opened its enrolment books to Negroes.

**Temporary Injunction**

For the past week, officials in 45 counties have been temporarily enjoined from preventing Negro enrolment pending the hearing here today.

Brown protested the double standard rules adopted for voting by the State Convention and the party oath.

The May 19 convention specified that white persons 21 years of age who subscribe to the party principles, meet residence requirements and are citizens of both the United States and South Carolina, could enrol.

Enrolment on party books entitles a person to party membership and participation in the precinct in which he lives.

Negroes, on the other hand, may vote in primary elections by presentation of their general election registration certificates, obtained every ten years.

Both Negroes and white voting in the primaries must take a party oath pledging endorsement of states' rights principles, principles of the state party, racial segregation, and opposition to the federal employment practices legislation.

Negroes are protesting these two phases of the rules. Backed by the National Association for the Advancement of Colored People, Brown argues that the Waring decision handed down in the Richland case entitles him as a Negro to the right to enrol on the party books and full participation in party affairs.

He is suing State Party Chairman William P. Baskin and 86 state executive committeemen and party chairmen. 2-16-48

**Original Decision**

The Waring decision specified that the Democratic party must permit all "qualified electors" to vote in the Democratic primaries.

All but six counties in the state have adhered to the state convention rules. These are Richland, Greenville, Spartanburg, Laurens, Darlington, and Jasper counties.

The first five permitted enrolment of Negroes. Jasper county will permit voting in the August 10 and 24 primaries by presentation of registration certificates only. Neither whites nor Negroes were enroled in Jasper.

# South Carolina Party Told To Give Negroes 'Full Rights'

The Advertiser, Montgomery, Ala.

CHARLESTON, S. C.—(AP)—The South Carolina Democratic Party was directed Friday in a federal order to enroll Negroes and grant them full rights in party affairs.

William P. Baskin, chairman of the State Democratic Executive Committee who had led the Palmetto State delegation at the national convention in Philadelphia earlier this week in condemning civil rights proposals, said the order "will be carried out fully."

The directive was contained in a preliminary injunction issued by Federal Judge J. Waties Waring upon petition of a Beaufort Negro, David Brown, who asked that Negroes be allowed to participate in the party.

"It's a disgrace and shame when you must come into court and ask a judge to tell you you are an American," Judge Waring snapped.

He warned 87 state and county party leaders, who were named defendants, that imprisonment awaited any party official who failed to comply fully with the spirit and letter of the decision.

Judge Waring asserted the order "Will bar racial discrimination (at) provide that the (party) books be opened to all parties regardless of race or religion (and) will fixe a reasonable time for the books to be opened."

Judge Waring, member of a widely known Charleston family and himself a Democrat, added: "The time has come when racial discrimination in political affairs must stop."

"Let me tell you that any disobedience to the letter and the spirit of this ruling will result in contempt proceedings," he sternly asserted. "The parties responsible for any violation will be punished by imprisonment."

He declared that he would include in his order a reference to the rights of religious groups. "If I don't," he observed, "next time they may bar some of the Jews or some of the Roman Catholics."

In an even tone of voice he told the party leaders that they had failed to abide by the spirit of a decision of a year ago which gave a Negro petitioner of Richland (Columbia) County the right to take part in county party affairs.

Through legislative action the Democratic leaders had sought to divorce the party from government and, in effect, render the party a political club limited to white members only.

Earlier in the hearing Judge Waring dismissed charges against party officials of Pickens, Laurens and Greenville Counties, which had admitted Negroes to the party. Judge Waring observed: "I am glad to see that three counties have sense enough, nerve enough and patriotism enough" to proceed properly "in the face of coercion."

# Democrats Told To Obey Order Or Go To Jail

## Waring Brands Discrimination In Poltics A Shame

CHARLESTON, S. C.—(SNS)—In clear and ranging language Friday, Federal Dist. Judge J. Waites Waring granted petitioners an injunction which makes it mandatory for the Democratic party of South Carolina to enroll Negroes and give them full and equal participation in party matters.

The petition, filed by David Brown, Beaufort Negro leader, sought a preliminary restraining order to keep the Democratic party from conducting its business affairs without at the sametime, giving him his constitutional right to participate.

Judge Waring told the 87 defendants, all of whom were state and county party leaders, that imprisonment awaits any party official who fails to comply fully with the "spirit" as well as the letter of the decision.

STERN ORDER

"My order," the Judge said, "will grant the prayer for a preliminary injunction. It will bar racial discrimination . . . provide that the books are open to all parties regardless of race or religion . . . will fix a reasonable time for the books to be opened.

The time has come when racial discrimination in political affairs must stop.

"Let me tell you that any disobedience to the letter and spirit of this ruling will result in contempt proceedings. The parties responsible for any violation will be punished by imprisonment.

"It's a disgrace and a shame," he said, "when you must come into court and ask a judge to tell you, you are an American."

In even tones he flayed the actions of party leaders who, he said, failed to abide by the "spirit" of his decision in the case of Columbia Negro George Elmore, who in July, 1947, won the right to participate in Richland (Columbia) county party affairs.

# Court Upholds Negroes' Right To Primary Vote

Herald Tribune, New York, N.Y. Fri. 7-9-48

## South Carolina Democrats Enjoined; Permanent Writ Hearing Set for July 16

CHARLESTON, S. C., July 8—(UP).—United States District Judge J. Waties Waring today ordered South Carolina Democratic leaders to show cause July 16 why they should not be permanently restrained from preventing Negroes from enrolling in the party.

Judge Waring also enjoined the defendants until then from "denying the plaintiff the right to enroll in the Democratic party on the same terms as white Democrats and from denying the plaintiff full and equal participation in the Democratic party primary."

His ruling was a big victory for the Negroes in an issue which has put wide cracks in the Democratic set-up since the South Carolina party convention put a segregation oath into the primary rules.

The party ruled that both Negroes and whites must take the oath upholding the state's segregation traditions. The convention held that Negroes would be permitted to vote in the primary provided they took the oath and were qualified to vote in the general election.

Few Are Enrolled

But most party enrollment books meantime were denied to the Negroes, and that issue, plus the segregation oath, provided the basis of their suit today. The Negroes were supported by many white Democrats who felt that the oath was contrary to the Supreme Court decision according unhampered voting rights to Negroes.

State Democratic Chairman William P. Baskin and eighty-seven other party leaders were named defendants in the suit. It was brought in the name of David Brown and other Negroes whose names were purged from the Beaufort County enrollment books last week. The suit asked $5,000 damages and an injunction "forever" against denying the Negroes "the effective exercise of their right to vote."

Herald Tribune, New York, N.Y.

The enrollment books have been closed to Negroes in all but four counties. Spartanburg, Greenville, Laurens and Pickens Counties defied the party rules to let them enroll.

Mr. Brown's suit asked for full and complete participation in the Democratic party of the state without regard for creed or color. It asked the outlawing of the rule making Negroes show their general election certificates and requiring them to take the "Jim Crow" oath.

N. A. A. C. P. Counsel Aided

Thurgood Marshall, chief counsel of the National Association for the Advancement of Colored People directed the preparation of the case.

Fri. 7-9-48

Judge Waring is the same Federal jurist who first ruled out the South Carolina "white primary" by which the party sought to eliminate Negro voters by representing itself as a private club. His ruling was upheld all the way to the United States Supreme Court and resulted in the invalidation of the white primary in Georgia as well as South Carolina.

Negro leaders contended that despite the Supreme Court decision they still did not have the right of franchise in South Carolina, and today's action was the only means they had of getting it.

# Circuit Court Affirms Waring's Ruling Against S. C. White Primary System

Daily Worker, New York, N.Y. 7-3-48

The U. S. Fourth Circuit of Appeals has upheld the decision of U. S. District Court Judge J. Waites Waring of Charleston that Negroes are entitled to vote in South Carolian Democratic primaries, attorney Harold R. Boulware was notified late Tuesday.

Mr. Boulware, associated with Thurgood Marshall as N. A. A. C. P. counsel for George A. Elmore in the case, received the following telegram Tuesday from Claude M Dean Clerk of Circuit Court at Richmond:

"Rice et al versus Elmore affirmed. Copy opinion by mail soon as printed."

DEMOCRATS MAY APPEAL

Speculation was rife late Tuesday as to whether or not South Carolina Democrats would move with the case to the U S Supreme Court. An executive committee session of the Democratic Party had voted to take the case to the nation's high est court, following the Waring ruling, returned on July 12. However, there was then a strong sentiment against appealing even to the Circuit Court.

It appears doubtful, however, that the Supreme Court would reverse the decision of Judge Waring. The

DETAILS LACKINGS

Basis for the Circuit Court's ruling was not obtainable here Tuesday but Democratic attorneys had sought exceptions to Judge Waring's decision on the grounds that the party, clothed under the 1944 Primary Repeal Acts, was now considered "legally secure" white organization. On this case was a pet project, was outlighted when the party's purpose was to elect officers of government

LEADERS E

Mr. Elmo

Richland D

lowed their

August of 1

their rejection of him in

of 1946 landed the previous

preme Court would alter the rul-

ings of Judge Waring and the Cir

cuit Court.

sponsoring and prosecuting

case, hailed it as an "order for our

liberation."

Elsewhere in Columbia and over the State there was great joy over the news that the right of South Carolina's 185,000 Negroes to vote in primary elections had been sustained.

Simultaneously no one seemed to believe that an appeal to the Supreme Court would alter the rulings of Judge Waring and the Circuit Court.

Basis for the Circuit Court's ruling was not obtainable here Tuesday but Democratic attorneys had sought exceptions to Judge Waring's decision on the grounds that the party, clothed under the 1944 Primary Repeal Acts, was now considered "legally secure" white organization. On this case was a pet project, was outlighted when the party's purpose was to elect officers of government

Attorney E

er pleasure

he felt the

fairly and j

NAAC

state

the case wa

the city

t could not reasonably be adjudged "private."

The case was argued in federal court in Columbia June 3-4. On July 12 Judge Waring issued his decision and Democrats appealed. The appeal arguments were heard before the three-man Circuit Court sitting at Baltimore on November 18 and the decision of that Court returned either December 29 or 30

**COUNTER MEASURES STUDIED**

Anticipating the decision as it came leaders in the battle for Negro voting rights in the state have for some time been studying counter moves to any countering undertakings of the Democratic party to nullify that ruling. It is envisioned that changes in party rules or vigorous enforcement of rules adopted by the Democratic convention in 1946 will be undertaken to hold to a minimum the number of Negroes who may seek to enroll for primary elections this year.

The main weapon, aside from possible further court action, seems to be registration. Leaders hold that persons obtaining registration certificates cannot be legally forced to submit to schemes and devicing rules of the party, aimed obviously at denying them the right to enroll and vote. Therefore, it is hoped that some 150,000 to 200,000 Negroes will register early in 1948, using the certificates as insurance against any schemes Democratic officials may conceive to refuse them registration.

The South Carolina primary case is considered more important than the Smith versus Allwright Texas case in that it deals with schemes and legal devices to continue the "white" primary. Had the case not been appealed to the Circuit Court the Waring decree would have applied only to the eastern district of South Carolina, over which he now presides. Now it covers all of the State, as well as other States within the Circuit Court's jurisdiction.

# 'Private Club' Designed to Bar Negroes from Voting Is Declared Illegal Again

Richmond, Va.—South Carolina's "private club" white primary designed to bar Negroes from voting, was declared illegal here December 30 by the U. S. Circuit Court of Appeals for the fourth circuit in an opinion affirming a similar ruling by a lower U. S. court in South Carolina, handed down last July 12.

Democratic party leaders in South Carolina had contended in their argument to the court that Negroes have "no more right to vote in the Democratic primary . . . than to vote in the election of the officers of the Forest Lake Country Club." This argument was blasted in today's opinion.

**For 25 Years**

NAACP attorneys Thurgood Marshall and Harold Boulware, in presenting the case to the court, stressed the fact that since 1900 every governor, member of the general assembly, United States representative and United States senator of the State of South Carolina, chosen in the general elections, was a nominee of the then existing Democratic party of South Carolina. It was further pointed out that during the past twenty-five years, the Democratic party of South Carolina has been the only political party in the state that has held statewide primaries for nomination of candidates for federal and state offices.

The lower court found that prior to the repeal of the primary election statutes, the Democratic party of South Carolina was subject to federal control and that the Negro electors who were qualified had the right to vote for elected officials, which right was secured and protected by the Federal Constitution. The court also found that the repeal of these primary election statutes by South Carolina did not change the status of the Democratic party in South Carolina.

Judge John J. Parker of North Carolina wrote the opinion of the three-judge Circuit Court of Appeals, declaring.

"No election machinery can be upheld if its purpose or effect is to deny the Negro, on account of his race or color, an effective voice in the government of his country, or state or community wherein he lives."

# Judge Waring Hands Down The Expected Decision

The leaders of the Democratic party of South Carolina journeyed to Charleston yesterday to hear from Federal Judge J. Waties Waring what they must have known they would hear.

Some of them, of course, were already persuaded that the party was violating the declared law and had argued, behind closed doors, first against the adoption of the politicians' plan to set the Negroes apart as voters but to deny them party membership and even more earnestly later for its modification.

How any person who had read the Waring-Parker decisions could have come to the conclusion that the party could get away with this attempt at nullification of the plain intent of the decision is something hard to understand. Perhaps nobody expected this although some may have hoped that the politicians' scheme would work for one more primary election.

But it didn't even accomplish this purpose.

The party by requirement of Judge Waring's order, to be handed down today or Monday, must now:

Admit Negroes to membership, on the same terms as whites, and permit their participation in party affairs.

Enrol Negroes, on the same terms as whites, and allow them to vote on their enrolment certificates.

Open the enrolment books through July 31 at noon for the enrolment of both whites and Negroes.

Abolish the thought-control oath, to which all voters, white and Negro, are required to subscribe.

All of these things, except, of course, the reopening of the books, which would not have been necessary, could have been done and should have been done by the state convention.

All of them could have and should have been done by the state convention reconvened when it became obvious that the state rules violated the declared law. And it was, as The Record pointed out back in May, fortunate that the state convention did not adjourn, but merely recessed at the call of the stae chairman.

It would have been better to have done it all voluntarily instead of being forced by the courts to do it. Some of Judge Waring's language yesterday was none too charitable in reference to the South Carolina politicians who devised this plan to have the South Carolina Democratic party emulate John L. Lewis and learn the hard way that the courts must be obeyed.

"It is a disgrace and shame," Judge Waring said, "that you have to come into court and ask a judge to tell you to be American citizens. The law of the land is to be obeyed."

And if orderly government is to be preserved in South Carolina the judge's language was warranted and deserved.

Now, if the party rules are to be brought into conformity with the decision, the state convention will have to be called into session. Senator W. P. Baskin, state chairman, admitted on the stand yesterday that he did not have the authority to change the party rules. The rules, as The Record has always contended, may be changed only by the state convention.

And this isn't the best time to hold a state convention on the heels of the national convention at which the state's delegates met defeat. But there isn't any real choice. Senator Baskin should now do what he has hesitated so long to do, but what he has known all along had to be done, issue the call.

# U.S. Court Okays Bus Jim Crow

Chicago Defender

RICHMOND, Va.— New fuel was added to the demand for Congressional action for a federal law to ban racial discrimination and segregation in interstate travel this week when the Federal Circuit Court of Appeals of this district upheld a previous federal district court ruling that interstate carriers are entitled to segregate the seating of colored and white passengers.

The court, in its ruling, consciously side-stepped ruling on the issue whether the mere act of racial segregation is itself discriminatory and hence a violation of the 14th Amendment of the U. S. Constitution. Instead it based its confirmation of the earlier ruling on U. S. Supreme Court rulings that interstate carriers may establish "reasonable" arrangements for the separation of white and colored passengers, "provided such arrangements are not discriminatory."

The case arose in a suit for damages of $25,000 filed by Mrs. Adeline Atwell Day of Syracuse, N. Y., against the Greyhound Bus company. Mrs. Day charged that in 1947, while enroute by bus from her home to Florida, the bus driver had her arrested at South Hill, Va., when she refused to move to the back of the bus.

Mrs. Day charged violation of her constitutional rights while in interstate travel, personal injury, loss of property and humiliation, all occasioned by the driver as agent of the bus line.

The report asserts, "Inside the largest churches, Protestant as well as Catholic, visitors are made unwelcome on account of race." The racial policy of the YWCA and YMCA also come in for biting criticism.

Chicago Ill.

**Negroes On Committee**

In D. C. schools, the report states that those for Negroes are "inferior to those for whites" and the buildings are older. All are operated on a Jim Crow basis. White universities, with the exception of Catholic University discriminates against Negroes.

Negro members of the 90-man committee included: Atty. Charles H. Houston, Washington, D. C.; Dr. Robert C. Weaver, New York City; Dr. Charles S. Johnson, Fisk University, Nashville, Tenn.; Dr. Sadie T. Alexander, Philadelphia; Dr. E. Franklin Frazier, Washington, D. C.; Lester B. Granger, New York City; Dr. Mordecai Johnson, Howard University, Washington, D. C.; P. L. Prattis, Pittsburg; Frank L. Stanley, Louisville, Ky.; Dr. Channing T. Tobias, New York City, and Walter White, New York City.

Other prominent Americans on the Committee were: James B. Carey, Washington, D. C.; Rev. Samuel McCrea Cavert, New York City; Charles Dollard, New York City; Dr. Louis Wirth, Chicago; Edwin R. Embree, Chicago; Marshall Field, Chicago; Rev. Harry Emerson Fosdick, New York City; Mrs. J. Borden Harriman, Washington, D. C.; Mayor Hubert Humphrey, Minneapolis; Howard W. Odum, Chapel Hill, N. C.; Mrs. Eleanor Roosevelt, Hyde Park, N. Y.; and Mrs. Harper Sibley, New York City.

The Committee singled out such organizations as Washington's Board of Trade, Real Estates Board, Recreation Board and official planning agency as among the chief offenders.

The State Department, Federal Housing Administration and other Federal agencies were also taken to task for their rock-ribbed racial policies both in employment and services. The former Office of Price Administration was named as the one Federal establishment which "came closer than any other government agency to eliminating the problem of race in employment."

Asserting that only Congress using its powers "in behalf of the Nation and the Nation's principles" can restore Washington to its original destiny," the report pointed to the District of Columbia civil rights law of 1875 which declared that "all persons within the United States be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land and water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every color, regardless of previous conditions of servitude."

**Study Cost $40,000**

The Committee, headed by Dr. George N. Shuster, president of Hunter College, New York, operated under the cooperative sponsorship of the Social Science Research, Carnegie, Rosenwald, and Fields Foundation and the American Missionary Association. The study was done by a field staff of 22 persons headed by Dr. Joseph D. Lohman, at an estimated cost of $40,000, exclusive of voluntary professional services. The research was summarized and compiled by Kenesaw M. Landis, II, of Logansport, Ind., Chicago Sun-Times columnist. The report was presented to President Truman by a group of members of the National Committee. Specifically, these are the charges which the Committee brings against Washington:

That "officially" the city is run as a "benevolent dictatorship" by three commissioners appointed by the President. "Unofficially, it is run by the 'friends of the court,' the dominant real estate, commercial financial interests, formally organized as the Board of Trade." The report asserts that "when the Board of Trade cracks the whip, the District jumps."

**Poor Whites Cleared**

These "special interests" the report claims, 'are those who have planned the segregation of Negroes in housing, jobs, theaters, restaurants, parks and playgrounds.

"It is not the poor whites who set the pattern," the report continues, "but men of acknowledged culture and refinement, the leaders of the community. It is not in the field of spontaneous human relationships that trouble occurs in Washington, but on a high policy level where segregation of the Negro is planned as a matter of good business and investments are made in the denial of his equal rights to own property."

On the housing front, the report points out that Negroes are forced into racial ghettoes in Washington unequalled in the "proudest of old Southern cities." It cites the Washington Real Estate Board Code of Ethics, 1948, which reads:

"No property in a white section should ever be sold, rented, advertised, or offered to colored people. In case of doubt, advice from the Public Affairs Committee should be obtained."

Accusing the Federal government of assisting in depriving Negroes of their housing rights, the report states that when the Federal Housing Administration insures the loans of Washington bankers who insist on segregation "Government money is used to insure that Negroes are penned in racial enclosures."

In the matter of employment, the Federal Government is again indicted. The report claims that "in spite of all principles and all its professions, its executive orders and directives, the United States Government is systematically denying the colored citizens of the capital equal opportunity in employment, and is setting an example of racial discrimination to the city and nation." The State Department is singled-out as one agency that is "super-sensitive" on the matter of hiring Negroes.

The report points out that the life expectancy of a Negro resident in the District of Columbia is 10 to 12 years less than that of whites and less than that of Negroes elsewhere. It takes to task racial segregation in hospitals and in the training of Negro medical personnel. It bares enforced segregation on D. C.-Recreation-Board-operated playgrounds. It states that "when the flag of the United States goes down they play together without bigotry."

The color line is also drawn in religion and religious institutions.

# School Cases Won in Dixie

## Oklahoma Must Change Segregation Statutes

## RAP ATLANTA PAY

## Sweatt Suit in Texas Headed for High Court

NEW YORK—Two Federal courts handed down decisions last week which accelerated the nation-wide drive for the elimination of segregation in education and equality in teachers' salaries.

In Oklahoma City, a special three-man Federal Court invalidated the State's laws prohibiting co-education of the races insofar as it prevented admission of a colored student to the Graduate School of the University of Oklahoma.

In Atlanta, a Federal judge ruled that the school board there could not maintain a discriminatory salary scale based on race.

In Austin, the Supreme Court of Texas refused to grant a writ of error which would have brought before the State's highest court, the now famous Sweatt case challenging its segregation laws.

**Counsel's Statement**

Thurgood Marshall, special counsel for the NAACP, said:

"These cases illustrate the irregular course of our drive against Jim Crow in education.

"In the Atlanta decision we won a victory which establishes the right of colored teachers to salaries equal to those paid white instructors.

**Texas Case Continues**

"In Oklahoma, although the court failed to order the university to admit our client, we succeeded in winning a declaratory judgment which, we believe, will enable us to hurdle the barrier of constitutionality heretofore raised against us.

"In the Texas case, the court rejected our attempt to test the segregation laws in the State's highest court. We will, of course, appeal this decision."

**The Oklahoma Case**

On Sept. 29, U.S. Circuit Judge Alfred P. Murrah, and District Judges Edgar S. Vaught and Bower Broaddus declared that Oklahoma statutes which prohibit colored and white students from attending the same school or being taught together can't be used to deny admission of G. W. McLaurin to the University of Oklahoma's Graduate School.

Mr. McLaurin, a retired professor of Langston University, Okla., applied for graduate work leading to a doctor of philosophy degree last January. The regents admitted that he was denied admission solely because of his race and color.

In August, NAACP lawyers petitioned the Federal Court in Oklahoma for a declaratory judgment and an injunction alleging that the State's segregation statutes were unconstitutional and in violation of the 14th Amendment of the U.S. Constitution.

**Court's Decision**

A preliminary hearing was held on Aug. 28 and the case was taken under advisement by the court. The decision, rendered through Judge Murrah, made a declaration of law that:

"The State is under the constitutional duty to provide this plaintiff with the education he seeks as soon as it does for applicants of any other group."

Judge Murrah, speaking for the entire court, also stated:

"The Court further holds that in so far as the statutes of he State of Oklahoma drawn in issue here deny or deprive this plaintiff of admission to the University of Oklahoma for the purpose of pursuing the course he seeks to pursue there, they are unconstitutional and void."

**Will Seek Entry Again**

However, the court refused to grant an injunction which would compel the admission of Mr. McLaurin, leaving the matter up to the State of Oklahoma.

The court retained jurisdiction of the case with full power to act, and provided that "either party may apply for further relief consistent with the pleadings in the case."

Mr. McLaurin and the attorneys representing him, Mr. Marshall and Amos Hall of Tulsa, Okla., immediately declared their intention to return to the University of Oklahoma and to insist that he be admited immediately.

**Fisher's Decree Recalled**

"If he is not admitted, further proceedings will be started to enforce the declaration of law issued by the Court and to compel his admission this semester," Mr. Marshall said.

Last January, in passing on the case of Mrs. Ada Sipuel Fisher, barred from the University of Ok-

ing the jurist requested elementary school teachers, white, information following: $180.19, colored, $112.38.

Texas Rejects Plea

evidence and argu The efforts of Heman Marion nted, in a six-day trial by Edward R. Dud Sweatt to gain admission to the chers were listed thus: grant a writ of error on Sept. 29. principals, white $340. Both the trial court and the Ci 40; elementary school cuit Court of Appeals in Texa white, 254.15, colored have denied the NAACP's conten orneys for the NAACP Texas were rejected by the Stat monthly salaries for Supreme Court, which refused to

At that time th "additional infor study of the ev ments presented, in Nov., 1947, by W. Hill, and Austin T. Law School of the University of ley, Oliver W. H Walden, attorney Average mon Atlanta teachers high school prin colored, $240; white, $198.45, colored, $145.65; invalid and that the law school se

...or colored students is an equal.

...courts have refused to or...er the University of Texas to ad...mit Sweatt to its law school.

Attorneys have indicated that a re-argument of the petition for a writ of error before the Supreme Court of Texas would be sought, but that if the writ is denied at that time, the case would then be taken to the U. S. Supreme Court.

# FREE AND EQ... SUIT IS DISM...

CHARLESTON, S. C. (ANP)—A suit to force school authorities to provide "adequate free bus transportation" for Negro public school pupils in Clarendon county was dismissed here last week by Federal District Judge J. Waites Waring. The dismissal was ordered after plaintiff's counsel made a motion to that effect, which was seconded by attorneys for the defense.

The plaintiff in the suit, filed March 17, was Levi Pearson on behalf of his son, James. They were represented by Attys. Thurgood Marshall, NAACP chief counsel, Harold Boulware, Columbia, S. C., and Edward R. Dudley. Defendants in the suit were the Clarendon county board of education; L. B. McCord, county superintendent of education; commissioners of Clarendon county school district 26 and E. G. Stukes, chairman of the board; and Jesse T. Anderson, state superintendent of education.

**VIOLATION CHARGED**

The suit charged violation of the 14th amendment of the constitution and asked a declaratory judgment against "the policy, custom, usage and practice of establishing and maintaining adequate, free transportation for white children while failing and refusing to provide or maintain free bus transportation for Negro children because of their race or color." In addition, an injunction was sought to prohibit the state from "making a distinction on account of race or color in providing bus transportation."

Replying to the charge, the defendants said laws of the state provided a system of procedure for such matters and that resort should be had to that procedure rather than to the federal court. They denied there was any discrimination by reason of color or race. They also pointed out that James Pearson was enrolled in a school district in which he did not live, and without approval of the district commissioners in violation.

On the discrimination count, they said that a considerable number of Clarendon county schools did not have access to free bus transportation.

# Judge Waring's Sound Approach

Though voices in opposition have already arisen against him, U. S. District Court Judge J. Waties Waring proposed a step toward settling the race issue in this country in such fashion before the New York Lawyers Guild last week that it deserves more than passing reference.

Judge Waring, whose several recent rulings have brought to South Carolina a new order of inter-racial living, after outlining the status of thinking and acting of native white southerners, invited the northerners and other Americans outside of the South having keen and sincere interest in its welfare and that of the country as a whole, to come into the section and work "gently but firmly" to liquidate racism.

This is a perfect about face. It is the opposite to what southern white leaders have advocated. But when the background behind it is tied in with the Waring proposal, it makes much sense and may also be the one answer long needed.

This background, of which Judge Waring did not speak, includes the previous "coming in" of outsiders to help the South to develop and live industrially, educationally and politically.

There is hardly a daily newspaper, a corporation operating a radio station, a furniture, department, clothing, or grocery business, of sizable volume and business reputation which is not financed partially or in full by northern or other than southern capital.

In the field of education, beginning at the end of the Civil War, many organizations poured millions of dollars into the South to educate Negroes and even to educate whites. Many of these have since been dissolved, but many still operate. The number of Rosenwald Schools, Jeanes Teachers, the number of institutions receiving funds from the General Board of Education, from wealthy northerners staggers the imagination. And had these not existed the back of the South would have been shattered the day after the Civil War ended.

It has been a paradox to note southerners whooping it up for sectional independence and in the next breath high-tailing it north to solicit funds, resources and means with which to exist. In other words, we of the South have contended for a "laisse affaire" policy on the "race question" and at the same time courted these same courses for assistance in order to operate.

If reasoning is to be applied, then it is obvious that just as the South has needed outside help to educate, employ and develop its citizens, it has needed--but would not countenance-help on the race issue. It hasn't gotten much help either and continues to spend so much time wrangling over it that it can afford little for its basic needs.

Moreover, if the South's economic and educational problems must be considered problems also of the country, the race problem is also that of America. The two are inseparable, that is the people and their community. The people constitute the community's resources and wealth and when these have short-comings, as has had the South's-the people are the root of it.

# JUDGE ORDERS BALTIMORE GOLF COURSES OPENED

Baltimore--(ANP)--All public golf courses run by the city of Baltimore must be opened to Negroes, Judge W. Calvin Chestnut of the Federal Court here ruled last week. He said:

"So long as the city furnishes golfing facilities, the quality must be substantially equivalent for both races."

His decision was based on the opinion that the Carroll Park nine hole course for Negroes was not as good as the other three city courses reserved for whites.

This case came up by suit of Charles W. Law after he was not allowed to play on the Mount Pleasant course.

Golf, the judge said, is a "unique game made or marred by more collateral and possibly aesthetic conditions" than other sports.

Judge Chestnut said that Law was entitled to use the three restricted courses rather than Carroll if he chose. He added that he would not tell the city how to meet the situation of abiding by the ruling. He did recommend that certain days could be set aside for Negro golfers.

He spoke of the latter act because of the small percentage of Negro golfers in comparison to whites. Of course, another solution could be to let the Negroes use any course anytime they wanted to.

# Face The Facts

The Record 12c Columbia, S.C. Thurs. 1-1-48

With the essential justice of the decision of the United States circuit court of appeals in the South Carolina primary case, handed down Tuesday, The Record does not quarrel.

For it has long been convinced that the Democratic party of South Carolina should have the wisdom to take into the primary Negro Democrats, meeting qualifications fixed for both whites and Negroes.

By now the Democratic party of South Carolina should recognize the fact that there is neither virtue nor profit in butting its head against a stone wall. All that has been accomplished by it so far is to throw away the goodwill that might have accrued to the party from doing voluntarily what the courts will compel it to do.

The Fourth circuit court of appeals had to write new law, of course, to make the South Carolina no-law primary system illegal and the news reports of the decision—The Record has not yet seen a copy of Judge John J. Parker's opinion—do not make it clear how the court got around the jurisdictional question, which is the core of the dispute, in the absence of any South Carolina statute referring to the primaries.

The court of appeals apparently vaulted this issue since it could not meet it head-on any more than Judge J. Waties Waring could.

"Even though the election laws of South Carolina be fair upon their base, yet if they be administered in such a way as to result in persons being denied any real voice in government, because of race and color, it is idle, "the court declared, "to say that the power of the state is not being used in violation of the constitution."

Yet there was no evidence before the court that the state's election laws were being administered in any way to deny anybody a voice in government. The Democratic party, organized and operating under no laws, was, of course, administered so as to deny Negroes the right to participate in Democratic primary elections, which by default of the other parties and by design of the Democrats are the real elections in South Carolina. But that, obviously, is something else again.

But this sort of legal pole vaulting is what the supreme court of the United States itself suggested that it would do should any state attempt, as South Carolina did, to find a way around the Texas decision in which the court had held that Negroes were entitled to vote in Southern primaries.

It should, therefore, have been anticipated. Any man who had read the recent decisions of the Fourth circuit court of appeals could have predicted what the court's decision would be. The Democratic party attorneys who argued the case before the court knew, as well as they could know anything, that they were fighting a lost cause. The Record

And any man who can read the recent supreme court decisions can be equally certain what the supreme court's opinion, written probably by Justice Hugo Black, will be should the case be carried to that court. The case may be appealed, but the appeal will end up as this appeal to the circuit court of appeals has ended.

The trouble with South Carolina is plain. Its politicians will not face the facts. That was the trouble in 1944 when Governor Olin D. Johnston called the special session to repeal the primary laws. For even then the facts were clear to see. The Negroes, like any other citizens, would some day vote in South Carolina as in other states. Columbia, S.C.

But South Carolina's politicians, having a vested interest in maintaining the status quo ante, elected to try the experiment of keeping one jump ahead of the supreme court of the United States. The experiment has afforded them three more years of conditions as they were, which might not have been bad had the state used the three years to make plans and preparations for the change. Now this time has run out.

The politicians may get a little more time by taking the case to the supreme court, but it will be borrowed time. Or they may even abolish the primaries and return to the convention system, depriving whites of the right to vote in order to keep the Negro from voting.

They are running from a shadow. Experience in North Carolina, Georgia, Virginia, Florida, Texas indicates that Negroes may be allowed to vote without the sky falling. Some of the politicians, who have made racial prejudice their sole stock in trade, may, of course, fall, but that isn't anything of which the state should complain. Thurs. 1-1-48

The 1948 General Assembly of South Carolina should restore the primary laws and in doing so provide that the qualifications for voting in the primary shall be identical with those in the general election. It never made much sense to allow persons to vote in the primary and require them to take an oath to support the successful candidates in the general election when they couldn't even vote in the general election.

# A Party Is More Than a Private Club

The Courier-Journal 12c Louisville, Ky. Thurs. 1-1-48

THE favorite fiction of the South Carolina political tradition has been revealed for what it is, a legal and moral fabrication. This is the theory that the Democratic Party of the Palmetto State is a voluntary association—in other words, a private club—with the right of exclusive membership. The point of the theory, of course, was that Negroes can be barred from any arrangement by which the party selects men who inevitably in a one-party system will govern the State and all its people.

A Federal Court of Appeals, which is the next thing to the Supreme Court, now has held that the theory is no good. The conclusion is as clear as day. In the very nature of truth and principle, democratic government and exclusiveness cannot mix. If there has been anything else as sure as death and taxes, it was that the courts would shatter, at first opportunity, the bland illusion of white supremacy.

Particularly fatuous was the argument, advanced seriously by counsel for the South Carolina Democrats, that Negroes "have no more right to vote in the Democratic primary than to vote in the election of officers of the Forest Lake Country Club." This is an astounding show of misapprehension as to what a government is. It was displayed in face of previous decisions that a primary is an integral part of the electoral process. In South Carolina, as in other Southern States, the men nominated in Democratic primaries are the men afterward elected, usually without opposition, to all offices. A qualified person deprived, by whatever device, of the right to take part in the first step, obviously becomes deprived of any voice at all in his government.

In spite of this obvious and elementary fact, South Carolina went to great pains to make the theory work. A special session of the legislature in 1944 carefully rewrote all election laws, cutting out all references to primary elections. Undeterred by the faintest protest, the legislators threw out even the safeguards against election fraud and corruption. In their breathless infatuation with the idea of remolding democracy more nearly to their hearts' desire, they gave out the word that the South had been saved for ante-bellum processes. Thurs.

The word spread. EUGENE TALMADGE was elected in Georgia on his promise to do likewise; and after his death, his son, HERMAN, in a brief seizure of the governorship by force, actually drove through his legislature and approved an action similar to that of South Carolina. The courts stopped that by throwing him out of his hi-jacked power, but other Southern States continued to toy with the same idea.

Doubtless the white supremacy forces will cling to this bit of sophistry until the Supreme Court utters the final word. But they will do so forlornly now, because the truth of the situation becames plainer. Nobody should doubt what the final judgment will be: and with it will come the end of a stubborn dogma of Southern politics. The old machines are decrepit. 1-1-48

# Text Of Negro Voting Decision

## Major Portions Of Circuit Court Decree By Judge Parker, Upholding Lower Court

The Columbia Record publishes court decree by Judge J. Waties Waring. 1-1-48

J. Parker and affirmed a district court decree here the principal parts of the re- cent decision of the United States Circuit Court of Appeals holding that the Democratic party in South Carolina must permit Negroes to vote in its primary elections. The opinion was written by Judge John

electors the right to vote therein. brought this as therein granted. Plaintiff contends Plaintiff, who has brought this action in behalf of all Negro electors similarly situated, is a Negro citizen of South Carolina, who has charge of the primary in the county and precinct where plaintiff resides.

**The 'Only Question'**

"The only question presented by the appeal is the correctness of the declaration as to the right to vote contained in the decree appealed from. The validity of the injunction against the enforcement of the Democratic Party limiting the right to vote in the primary to white persons, is not challenged. The defendants are officials of the Democratic Party of South Carolina, who have charge of the primary in the county and precinct where plaintiff resides.

"This is an appeal from a decree adjudging that Negroes are entitled to vote in Democratic primary elections under the Constitution and laws of the United States and the Constitution and laws of South Carolina. He has brought this action in behalf of all Negro electors similarly situated, against the State of South Carolina and enjoin- ing defendants, who conduct such elections, from denying to Negro Democratic primary electors the right to vote in the that, because there has been no that state statutory regulation of primaries in

South Carolina since the repeal in 1944 of the statutes relating thereto, the constitutional limitations on state action relied on by plaintiff have no application and that there is consequently no jurisdiction in the court to grant declaratory or injunctive relief. They argue that defendants in the action complained of were acting, not as state officials, but as members of the Democratic Party, which, they say, is a voluntary political association which can exercise unrestricted choice of membership. There is no dispute as to the facts, which are fully and fairly set forth in the opinion of the District Judge. See Elmore et al. v. Rice et al., 72 F. Supp. 516. They may be briefly summarized as follows: Columbia S. C.

"For half a century or more the Democratic Party has absolutely controlled the choice of elective officers in the State of South Carolina. The real elections within that state have been contests within the Democratic Party, the general elections serving only to ratify and give legal validity to the party choice. So well has this been recognized that only a comparatively few persons participate in the general elections. In the election of 1946, for instance, 290,223 votes were cast for Governor in the Democratic primary, only 26,326 in the general election. The Record

"In South Carolina, as in most other states of the Union, the primary had become an integral part of the election machinery recognized and regulated by law. Article II, sec. 10, of the State Constitution of 1895 directed that the Legislature provide by law for the regulation of party primary elections, and pursuant thereto a complete set of primary laws had been adopted and were in effect when the Supreme Court of the United States decided the case of Smith vs. Allwright 321 U. S. 649, holding that the right to vote in a primary election held under state law might not be denied on the ground of race or color. Immediately following this decision, the then Governor of South Carolina convened the state legislature and recommended that it repeal all laws with relation to primaries with the avowed purpose of preventing voting by Negroes in the Democratic primaries of the state.

**Laws Repealed**

"Pursuant to this recommendation the primary laws of the state were repealed and the Democratic primary was conducted thereafter under rules prescribed by the Democratic party. That the primary when conducted by the party fulfilled the same function in the election machinery of the state and was managed in practically the same way as when conducted under state law, does not admit of doubt.

"With respect to this, the District Judge, after describing the procedure when the statutes regulating the primary were in effect,. went on to say: Columbia S. C.

(Here Judge Parker quoted from the opinion of Judge Waring, which noted the repeal of the statutes having to do with the Democratic party.) Jan. 1-9-48

"The question presented for our decision is whether, by permitting a party to take over a part of its election machinery, a state can avoid the provisions of the Constitution forbidding racial discrimination in elections and can deny to a part of the electorate, because of race and color, any effective voice in the government of the state. It seems perfectly clear that this question must be answered in the negative.

"The fundamental error in defendants' position consists in the premise that a political party is a mere private aggregation of individuals, like a country club, and that the primary is a mere piece of party machinery. The party may, indeed, have been a mere private aggregation of individuals in the early days of the Republic, but with the passage of the years, political parties have become in effect state institutions, governmental agencies through which sovereign power is exercised by the people. Party primaries are of more recent growth. Originating in the closing years of the last century as a means of making parties more responsive to the popular will in the nomination of candidates for office, they had been adopted by 1917 in all except four of the states of the Union as a vital and integral part of the State election machinery. Encyclopedia of Social Sciences vol. 6 page 396. The relation of the primary to the election was well stated by Mr. Justice Pitney in his concurring opinion in Newberry vs. United States 256 U. S. 232, 285, where he said:

"'It seems to me too clear for discussion that primary elections and nominating conventions are so closely related to the final election, and their proper regulation so essential to effective regulation of the latter, so vital to representative government, that power to regulate them is within the general authority of Congress. It is matter of common knowledge that the great mass of the American electorate is grouped into political parties, to one or the other of which voters adhere with tenacity, due to their divergent views on questions of public policy, their interest, their environment, and various other influences, sentimental and historical. So strong with the great majority of voters are party associations, so potent the party slogan, so effective the party organization, that the likelihood of a candidate succeeding in an election without a party nomination is parctically negligible. As a result, every voter comes to the polls on the day of the general election confined in his choice to those few candidates who have received party nominations, and constrained to consider their eligibility, in point of personal fitness, as affected by their party associations, and their obligation to pursue more or less definite lines of policy, with which the voter may or may not agree.

As a practical matter, the ultimate choice of the mass of voters is predetermined when the nominations have been made.' The Record

"As primaries have become imbedded in the election machinery of the country, there has come gradually a recognition by the courts of the function they perform and the application to them of the laws relating to elections."

(Here Judge Parker cites other cases involving the issue in the South Carolina action.)

**Not 'Controlling Distinction'**

"It is true, as defendants point out, that the primary involved in Smith v. Allwright was conducted under the provisions of state law and not merely under party rules, as is the case here, but we do not think this a controlling distinction. State law relating to the general election gives effect to what is done in the primary and makes it just as much a part of the election machinery of the state by which the people choose their officers as if it were regulated by law, as formerly.

"Elections in South Carolina remain a two step process, whether the party primary be accounted a preliminary of the general election, or the general election be regarded as giving effect to what is done in the primary; and those who control the Democratic Party as well as the state government cannot by placing the first of the steps under officials of the party rather than of the state, absolve such officials from the limitations which the federal Constitution imposes.

"When these officials participate in what is a party of the state's election machinery, they are election officers of the state de facto if not de jure, and as such must observe the limitations of the Constitution. Having undertaken to perform an important function relating to the exercise of sovereignty by the people, they may not violate the fundamental principles laid down by the Constitution for its exercise. Cf. Steele v. L. & N. R. Co. 323 U. S. 192; Kerr v. Enoch Pratt Free Library 4 Cir. 149 F. 2d 212. As said in the case last cited, 'We know of no reason why the state cannot create separate agencies to carry on its work in this manner, and when it does so, they become subject to the constitutional restraints imposed upon the state itself.'" Jan. 1-9-48

**Sees Constitution Violated**

"Even though the election laws of South Carolina be fair upon their face, yet if they be administered in such way as to result in persons being denied any real voice in government because of race and color, it is idle to say that the power of the state is not being used in violation of the Constitution. As said in Yick Wo v. Hopkins 118 U. S. 356, 373-374, 'Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution.

"It is pointed out in the case of United States v. Classic, supra, 313 U. S. 299, that the right to vote in the primary and to have one's vote counted is to be protected, not only where state law has made the primary an integral part of the procedure of choice, but also where in fact it effectively controls the choice, as is unquestionably true in South Carolina..."

(Judge Parker quoted here from the decision in the Classic case.)

"An essential feature of our form of government is the right of the citizens to participate in the governmental process. The political philosophy of the Declaration of Independence is that governments derive their just powers from the consent of the governed; and the right to a voice in the selection of officers of government on the part of all citizens is important, not only as a means of insuring that government shall have the strength of popular support, but also as a means of securing to the individual citizen proper consideration of his rights by those in power. The disfranchised can never speak with the same force as those who are able to vote. The Fourteenth and Fifteenth Amendments were written into the Constitution to insure to the Negro, who had recently been liberated from slavery, the equal protection of the laws and the right to full participation in the process of government. These amendments have had the effect of creating a federal basis of citizenship and of protecting the rights of individuals and minorities from many abuses of governmental power which were not contemplated at the time. Their primary purpose must not be lost sight of, however; and no election machinery can be upheld if its purpose or effect is to deny to the Negro, on account of his race or color, any effective voice in the government of his country or the state or community wherein he lives.

"The use of the Democratic primary in connection with the general election in South Carolina provides, as has been stated, a two step election machinery for that state; and the denial to the Negro of the right to participate in the primary denies him all effective voice in the government of his country. There can be no question that such denial amounts to a denial of the constitutional rights of the Negro; and we think it equally clear that those who participate in the denial are exercising state power to that end, since the primary is used in connection with the general election in the selection of state officers. There can be no question, therefore, as to the jurisdiction of the court to grant injunctive relief, whether the suit be viewed as one under the general provisions of 28 USCA 41 (1) to protect rights guaranteed by the Constitution, or under 28 USCA (41(11) to protect the right to citizens of the United States to vote, or under 28 USCA (41(14) to redress the deprivations of civil rights. 1-9-48

"There was no error and the judgment appealed from will be affirmed.

"Affirmed."

# Virginia Federal Jury Refuses Bus Damages

Daily World 2-[illegible] Atlanta, Ga.
Wed. 7-7-48

## Woman Claims Unlawful Ejection During Travel

RICHMOND—(ANP)—A plaintiff in another bus suit for $25,000 damages lost in the U. S. District court here June 30. It took the all-white jury about ten minutes to return the verdict in favor of the Atlantic Greyhound Bus company, defendant in the case.

The plaintiff, Mrs. Adeline Atwell Day, brought suit against the bus company charging that she had been ejected unlawfully from one of the buses of the company. She asked $15,000 as compensatory damages and $10,000 as exemplary damages for alleged mistreatment she received from the bus driver and two South Hill police on Jan. 22, 1947, when she refused to obey the bus company's segregated seating rule.

Oliver W. Hill and Martin A. Martin, attorneys for Mrs. Day, told the court that their client boarded the bus at Richmond and occupied the second seat from the front of the bus as far as South Hill without any complaint. She was traveling on a round-trip ticket from her home in Syracuse, N. Y. to Winter Haven, Fla.

**DEMAND TO MOVE** 7-7-48

It was reported that after Mrs. Day arrived in South Hill, the driver demanded that she move to the farthest rear seat. In her complaint it was stated that the plaintiff refused on the grounds that she was an interstate passenger and therefore not required to move and that the seat she was ordered to take did not have the facilities equal to those in the front. Daily World

Mrs. Day also alleged that the driver called two police officers afterwards and requested that they remove her from the bus. Theofficers testified that they removed Mrs. Day forcibly, arrested her and charged her with disorderly conduct.

## U. S. Judge Okays Jim-Crow Travel

Pittsburgh Courier 12c 7-10-48

ROANOKE, Va.—The fact that Congress has "consistently refused to enact legislation which would ban segregation" was cited as justification by a Federal judge here Thursday in approving the separation of Negro and white passengers by a bus company.

Pittsburgh Courier

The ruling, made by Judge John Paul, was handed down in the suit of William I. Simmons against the Atlantic Greyhound Corporation. The Federal Court's decision automatically set aside the $25 awarded by a jury to Mr. Simmons in his suit for $20,000 damages.

The Rev. Mr. Simmons had filed suit as a test of the rules set up by the bus company after a Virginia statute covering segregation of races in public carriers had been declared unconstitutional.

The decision virtually concedes that a public carrier has the right to establish its own rules regarding separate seating of white and Negro passengers . . . where such separation is in line with local custom.

## $25,000 Bus Suit Is Lost

Journal & Guide Norfolk, Va. 12c

### After Ten Minutes Of Deliberation, Jury Finds For Bus Co.

1st 7-10-48

*By NNPA News Service*

RICHMOND, Va. — A woman who alleged that she was unlawfully ejected from an Atlantic Greyhound Corporation bus for refusing to move to the rear in accordance with a company rule, lost a $25,000 damage suit against the company in the United States District Court here last week.

After deliberating for about ten minutes on Wednesday the all-white jury returned a verdict for the bus company. The verdict, apparently, is contrary to law and, if allowed to stand, will nullify the effects of the United States Supreme Court's decision in the celebrated Morgan case.

The plaintiff, Mrs. Adeline Atwell, Day, asked $15,000 as compensatory damages and $10,000 as exemplary damages for her ejection from the bus by the bus driver and two South Hill, Virginia, police officers on January 22, 1947, for refusing to obey the order of the bus driver to move to a back seat in accordance with the bus company's rule.

**SUPREME COURT RULING**

After the United States Supreme Court held invalid the Virginia Jim Crow law requiring segregation of interstate passengers on the basis of race, bus companies operating in the South adopted, rules directing their drivers to seat colored passengers in the rear and whites in the front. The rule was ostensibly to circumvent the Supreme Court's decision in the Morgan case.

Efforts of bus companies to enforce such rules by use of Virginia's disorderly conduct law have been held illegal by the Virginia Supreme Court of Appeals. That court ruled that a bus company has a right to perscribe "reasonable" rules for seating arrangements, but its authority for enforcing such rules stops with removal of passengers from buses.

According to evidence by her attorneys, Oliver W. Hill and Martin A. Martin, Mrs. Day boarded the bus at Richmond and occupied the second seat from the front of the bus as far as South Hill without complaint. She was traveling on a round-trip ticket from her home in Syracuse, New York to Winter Haven, Florida.

**COMPLAINT TESTIMONY**

Her evidence was to the effect that after the bus arrived in South Hill, the driver demanded that she move to the farthest rear seat. In her complaint it was stated that Mrs. Day refused on the grounds that she was an interstate passenger and hence not required to move and that the seat she was ordered to occupy did not have facilities equal to those of seats in front.

The plaintiff also alleged that the driver then called two police officers and demanded that they remove her from the bus The officers testified they removed Mrs. Day forcibly, arrested her and charged her with disorderly conduct.

Mrs. Day's complaint stated that she lost both a bracelet and a hat in being taken from the bus, and was required to pay $20 to be released from jail.

The bus driver told the jury he was following company rules and customs in asking Mrs. Day to move. J. A. Keton, deputy sheriff of Mecklenburg county, testified that it had always been the "custom and tradition" in that county for white passengers to be seated from the front and colored passengers from the rear.

**OFFICIALS TESTIFY**

Greyhound officials also testified that this method of segregation was the fariest way to insure equal seating facilities for each race.

In his closing remarks to the jury, Mr. Martin suggested that, if segregation were practiced, a fairer method would be to divide the bus along the aisle so that each race would sit on one side of the aisle from front to back.

It was the defense's contention that the physical facilities offered each race in the bus were equal, with the exception that the extreme rear seat did not have an adjustable back.

In his charges to the jury, Judge Sterling Hutchinson told the panel that if the Greyhound company provided both white and colored passengers "substantially equal" facilities, then its seating rules should be construed as being reasonable and fair. If not, then the rules were discriminatory and should be considered "invalid and ineffective," he said.

## Court Upholds Segregation of Passengers

RICHMOND, Va. —(AP)— The United States Fourth Circuit Court of Appeals yesterday upheld the right of an interstate carrier to segregate the seating of Negro and white passengers "providing there is no discrimination in the arrangement."

The Atlanta Constitution 7-7-48

The Appellate Court handed down an opinion affirming a District Court judgment denying $25,000 to Adeline Atwell Day, 67-year-old Negro woman of Syracuse, N. Y., who claimed she was forced off an Atlantic Greyhound bus in South Hill, Va.

The three-man court ruled that "the adoption of a reasonable regulation by an interstate carrier for the segregation of passengers does not violate the law as laid down by the Supreme Court."

The court's opinion, written by Judge Morris A. Soper, made a distinction between what the State of Virginia can do and the private carrier can do about segregation in busses and trains, on the basis of two Supreme Court decisions.

Judge Soper, acting in consideration of these decisions, said he felt the court was restrained from inquiring into whether the segregation of the races in public vehicles is in itself inherently discriminatory.

## SHACKLING THE WRIT OF FREEDOM

Chicago Daily Tribune

On the day that the Republican convention opened to present itself as the defender of freedom all over the world, the Supreme court handed down an opinion which three of its members say threatens the basic freedoms of Americans.

Paul Ahrens and some 120 other German aliens had been picked up by the department of justice for deportation to Germany. They challenged the deportation order by filing a petition for a writ of habeas corpus. They contended that the deportation statute did not apply to them because they had been arrested after the German surrender. The writ was sought in the federal District court of the District of Columbia, naming Atty. Gen. Clark as the respondent. Sat. 7-3-48

The Supreme court, upholding the lower courts, denied the writ. Ahrens and the other petitioners were in New York. Clark was in Washington. The court cited a post-Civil war statute, conferring on all federal courts the power to issue writs of habeas corpus, which said that the various courts should have that power "within their respective jurisdictions." Clark had offered to waive the jurisdictional question and try the case on its merits, but the court held that the statute forbade him to do that.

Justices Rutledge, Black and Murphy dissented. Their opinion noted that the process of habeas corpus is directed against a jailer, to require him to produce a prisoner in court and prove that the prisoner is held legally. In this case Clark was, in effect, the jailer, and he was in the jurisdiction of the court.

To apply the test of jurisdiction on the basis of the place where the prisoner is held, Mr. Justice Rutledge said, could have the effect of denying altogether the protection of habeas corpus. The prisoner might be held in secret. The prisoner might be in one jurisdiction while the jailer could be served only in another. The rule of the majority, he said, "is not merely as a matter of venue or of accommodation in the exercise of authority among tribunals of co-ordinate power, allowing room for some adaptability to varying circumstances. It is one crucial between competence to act and total impotence."

Laymen often misunderstand the writ of habeas corpus. It does not open the doors of a jail, but only those of a courtroom, giving the applicant the right to question whether he is held legally. In this case issuance of the writ would not have freed Ahrens and the other aliens. It would merely have afforded them a test of the legality of their prospective deportation.

In recent months the Supreme court was severely critical of the attorney general and Supreme court of Illinois, asserting that they had denied convicts fair hearings on whether their detention was legal by holding that whatever legal path the convict took to seek his hearing, he took the wrong one. The federal court's attitude in that case seems hardly consistent with what it has just done in the case of federal prisoners.

Two days after the Ahrens opinion was handed down the Republican convention adopted its platform, opening with the demand for "liberty, opportunity and justice for all." The platform contained detailed statements against lynching, poll taxes and segregation in the services, and for federal fair employment legislation. These assurances to Negroes are commendable, but there was not a word on other encroachments which are equally dangerous to the freedom of all Americans, including Negroes.

The platform ignored the vicious abuse of the conspiracy act in the mass sedition trial. The Supreme court now says that a citizen, held elsewhere, may not sue in Washington to seek his freedom, yet by perversion of the charge of conspiracy the sedition defendants were transported to Washington from all parts of the country and compelled to stand a trial, far from their homes, that consumed years. 7-3-48

Neither did the platform mention the judicial murders of Nuernberg, where in the absence of applicable national or international law the defendants were condemned under ex post facto rules devised by the court to suit its own convenience. There was good reason for this omission. The Nuernberg trials were cooked up by the war criminals of this nation, Britain, France, and Russia to cover their own guilt, and some of those war criminals were calling the signals for the Republican convention.

## Supreme Court Reverses Convictions Of Strikers

Journal Sentinel Sat 3-20-48

WASHINGTON, D. C.—The convictions of John Henry Brunson, Essie King, Martha Jones, Louise James, Evelyn Childs, Lida Mae Watkins, Celia Ann Purcell, James Sturdivant and Louvenia Wallace, were invalidated Monday by the United States Supreme Court on the grounds that Negroes had been arbitrarily excluded from jury service during their trials. Tues 3-23-48

The nine were convicted of various charges ranging from disorderly conduct to assault after disorders during a laundry workers strike at Winston-Salem, N. C. in 1946.

In a brief order — without opinion — the court directed reversal of the convictions. The order cited many recent opinions holding that systematic exclusion of Negroes from juries invalidates their verdicts.

Counsel for the nine told the Supreme Court that the commissioners of Forsyth County, N. C., for more than 10 years had "arbitrarily and systematically discriminated" against Negroes in jury selection.

The defendants had been given sentences ranging from one to 18 months in jail. One man got 15 months at road work.

"Since Negroes have the right to vote in the Democratic primaries in the state, the Negro Digest article declares, "it is not far-fetched to assert that a Negro with important labor connections will be occupying the office of vice-president in 1960."

Virgin Islands governor William Hastie, Charles Houston and Miller are lawyers named by McWilliams as supreme court prospects.

## An Elector Solution

Kenosha News 3-25-48

The United States Supreme Court has denied a petition of three voters aimed at forcing Alabama's electors to vote for Truman and Barkley instead of Thurmond and Wright. The court lineup was 8 to 0, with Justice Black, an Alabamian, taking no part in the action. The ruling was announced Monday in routine orders and presented no discussion of the question of the responsibilities and functions of electors.

It has been contended by Gov. Folsom and others that electors are bound by an Alabama state law, held invalid in an advisory State Supreme Court decision to support national party nominees.

On the other hand, it has been contended that under the constitution electors are independent officials and were the duly chosen representatives of the Democratic Party in this state. Wed 3-24-48

* * *

Obviously there is great need of clarification of the functions of electors. Custom and usage have usually made them simply agents for expressing the will of the voters. Usually that will has been to support national nominees. But the anti-Truman movement in the South during the last campaign introduced much of controversy and complexity into the situation.

It would be a regrettable situation in obvious respects if electors found themselves called upon by a court ruling to depart against their will from pledges they had made to voters. Apparently no such situation is likely to arise. President Truman's election has been assured without the support of the four states in which the Thurmond-Wright ticket led. The issue raises no question as to the result in the electoral college. It is well that no intensification of the controversy over electors is now in prospect.

But the problem of electoral responsibility in this respect remains. There should be no repetition of the confused, divisive situation which prevailed in the recent campaign, with President Truman not even represented on the ballot in this state. The fundamental solution lies in electoral reform.

* * *

Momentum has been given by the recent controversy to the movement for a constitutional amendment to do away with the electoral college itself but retain the electoral system of voting, with each presidential candidate receiving his respective proportion of each state's electoral vote in accordance with his popular support.

Under this proposal each person for whom votes were cast for president would be "credited with such proportion of the electoral votes . . . as he received of the total vote. . . ." Thus there would be no question as to state presidential electors. There would be Wed 3-24-48

But state electoral votes would be retained on the present method of apportionment, which is, of course, based on the number of representatives in Congress.

This system gives special consideration to the position of the less populous states, which would surely oppose any constitutional change altering their status in this respect and providing for presidential selection by straight popular vote.

## Loren Miller seen as likely high court prospect

Supreme Court prospect, Carey McWilliams in April Negro Digest, predicts that "other Negro" will be in the cabinet and on the Supreme Court bench and that a Negro will be vice-president of the United States within the next 12 years.

Chicago — Naming Los Angeles lawyer Loren Miller as a likely high court prospect

some ... cabinet post.

There will, of course, be quite a number of Negroes in Congress," McWilliams continues. "And at the state and local levels, there will be numerous Negro legislators, mayors, judges, sheriffs, constables, and so forth.

"In short," he concludes, "I am very optimistic about the future political prospects for the Negro."

# U. S. High Court Tells Mississippi To Review Case

WASHINGTON. — The United States Supreme Court told the Mississippi State Supreme Court to reconsider the appeal of Albert Lee of Jackson, sentenced to an 18-year prison term on a conviction of assault with intent to commit rape, Monday.

During his trial, the 18-year-old Negro claimed that a confession was wrung from him by threats of violence. He later denied making any confession at all, and the Mississippi court threw out his appeal because of this contradictory testimony.

The Supreme Court ruled unanimously that his conviction should be set aside if the Mississippi court finds on further study that it was indeed based on an extorted confession.

Justice Frank Murphy, who wrote the opinion, said that "inconsistent testimony should not and cannot preclude the accused from raising the . . . issue" of whether he was granted the "due process of law" prescribed by the 14th Amendment.

THE TARHEEL WEEK

By C. D. HALLIBURTON

THE U. S. SUPREME COURT has invalidated the conviction of nine Negroes sentenced in Forsyth County Superior Court in November, 1946, in connection with alleged disturbances occurring during a strike of laundry workers in Winston-Salem in October of that year. The high court's decision was based on systematic discrimination against Negroes as to service on juries during a ten year period. No opinion was written by the court, its position being that well established precedent required reversal of the verdict of the North Carolina courts. The Forsyth Superior Court had been sustained by the North Carolina Supreme Court.

THE NINE DEFENDANTS were originally convicted of various charges such as assault and battery and disorderly conduct in Winston-Salem Municipal Court. When the cases were appealed to superior court defense attorneys moved to quash the warrants on the ground that the grand jurors for that term of court were all white persons, and that Negroes were included on the jury rolls not at all, or in numbers not remotely commensurate with their eligibility. Exception was also made to North Carolina's laws which require that jurors be taxpayers.

The presiding judge denied the motion to quash the warrants, and then ordered a special venire including Negroes. Ultimately the trial jury drawn included five Negroes. In reviewing the case the State Supreme Court found no error.

The action of the U. S. Supreme Court in this case came somewhat as a surprise to the people of the state, since three defendants in a previous Winston-Salem case (one of them a white union official) regarded as very similar had their convictions upheld by the high court. They have all completed their prison terms, Philip Koritz, the white CIO Tobacco Workers Union official, having been released a short time ago on parole. The two Negro defendants completed their shorter terms, with time off for good behavior, several months previously.

A STRIKING MISCARRIAGE of justice took place in North Carolina this month. A coroner's jury in Gaston County freed with a verdict of "justifiable homicide" a white storekeeper who had shot and killed a Negro customer after an argument.

According to the Associated Press two white eyewitnesses gave the following story of the incident. The victim, Otis Guinn, bought some gasoline from the slayer, Eric Leggett, for which he was charged 26 cents a gallon. Guinn contended that he had been getting the gasoline for 25 cents. In the dispute that followed, the storekeeper ordered Guinn from the place, and threw a bottle at him. The customer picked up a head of cabbage to throw back, and at that point Leggett got a pistol and fired the fatal shot.

ON THE TESTIMONY of the reputable news agency the white storekeeper was evidently guilty of a homicide not "justifiable" by the most generous application of the term. Apparently Guinn was punished for disputing with a white man and resisting an assault on his own person, and that, in some places in North Carolina, is a capital crime, the sentence to be executed immediately by any private party.

THE RALEIGH CITY COUNCIL has voted to uniform the city's two Negro policemen. Since John Baker, the first colored appointee to the police force, assumed his duties some years ago the small Negro contingent on the force has "enjoyed" a peculiar status. It is understood that as plainclothesmen both Baker and Joseph Winters, the second and last Negro added to the force, have had a status approaching that of detectives as to pay and some other privileges.

Some Negro individuals and organizations have felt that Raleigh city officials by this device had effected a compromise between uniforming the colored officers and making them honest-to-goodness detectives.

What Raleigh's Negro citizens wanted was to leave the status of the present two officers undisturbed, except for promotion in rank, and see new colored men added to the force, the new men to be in uniform. The majority of Negro citizens regard the change voted by the council as undesirable, since it would appear to be a demotion in rank for Baker and Winters. Protests are being made to the responsible city authorities against the change, which has not yet gone into effect.

All North Carolina's major cities, except Wilmington, have Negro policemen, and in all or most of them the colored officers were in uniform from the first. Raleigh is the only major city with as few as two Negro officers.

# Surprise Supreme Court Ruling

# High Court Upholds Okla. in Separate Law School

WASHINGTON

The Supreme Court ruled Monday officials of Oklahoma did not violate its mandate of Jan. 12 when it established a separate law school for Mrs. Ada Lois Sipuel Fisher.

The court, in a 7-2 opinion, denied the NAACP attorneys' motion to file petition for a writ of mandamus in the case, declaring that the issue of separate schools was not involved in the original petition for certiorari and, therefore, was not a question before the court.

Justice Murphy expressed the opinion that a hearing should be held in order to determine whether the action of the Oklahoma court subsequent to the issuance of the mandate constituted an invasion of the mandate.

**Rutledge Dissents**

Justice Rutledge dissented, declaring the Oklahoma court's orders were "inconsistent" with the Jan. 12 mandate.

The affirmative group said, "The only question before us on this petition for a writ of mandamus is whether or not our mandate has been followed. It is clear that the district court of Cleveland County did not depart from our mandate."

Continuing, the court pointed out that the issue of whether a State might not obey the equal protection clause of the 14th Amendment by establishing a separate law school was involved in the original petition.

"The Oklahoma district court has retained jurisdiction to hear and determine any question arising under its order. Whether or not the order is followed or disobeyed should be determined by it in the first instance," the High Court added.

And in conclusion, the court said, "The manner in which, or the method by which Oklahoma may have satisfied, or could satisfy the requirements of the mandate as applied by the District Court of Cleveland County in its order of January 22 is not before us.

Justice Rutledge declared that in his opinion compliance with the mandate meant that Oklahoma "should end the discrimination against Mrs. Fisher at once, not at some other date, near or remote.

"It also meant," he said, "that this should be done, if not by excluding all students, then by affording Mrs. Fisher the advantage of a legal education equal to those afforded to white students, and in my comprehension, the equality required was equality in fact, not legal fiction.

"Obviously, no separate law school could be established elsewhere overnight capable of giving the petitioner a legal education equal to that afforded by the State's long established State University Law School.

"Nor could the necessary time be taken to create such facilities while continuing to deny them to petitioner, without incurring the delay which would cnotinue the discrimination our mandate required to end at once.

"Neither did the State comply with it by continuing to deny the required legal education to petitioner while affording it to any other student as it could do by excluding only students in the first-year class from the State University Law School."

Justice Rutledge concluded that "since the State Court's order allowed State authorities at their election to pursue alternative courses, some of which do not comply with our mandate, I think those orders inconsistent with it."

# Supreme Court Reverses Labor Group Convictions

Exclusion From Jury Duty Cited in Case of Winston-Salem Laundry Workers

WASHINGTON (NNPA)—Without even called for jury duty.

out writing an opinion, the U.S. Those involved in the case were: Supreme Court last week reversed John H. Brunson, convicted of the conviction of eight resident assault and sentenced to fifteen of Winston-Salem, N. C., who had months on the road; Essie King, been convicted of misdemeanor convicted of assault and sentenced growing out of a strike of laundry to thirty days in jail; Martha Jones, workers. convicted of disturbing the peace

When the case was argued last and disorderly conduct and given Dec. 15, the defense attorneys cited thirty days in jail; Louise Jones, a long list of decision holding convicted of malicious injury to illegal the systematic exclusion of real property and given thirty days colored persons from petit and in jail; grand juries, and were able to Evelyn Childs, convicted of prove that although 45 per cent of malicious injury to real property the residents of Forsyth County and given thirty days in jail; Lida N.C. are colored very few were Mae Watkins, convicted of assault

officer, given
jail; Colin A.
Sturdivant and
onvicted of as-
months in jail.
tried the eight
l white except
H. Brunson. In
red juror was
gular jury box,
rial jury.

MANY REASONS FOR ACTION:

# What Covenant Ruling Means to Minorities

Afro American Baltimore Md
Sat. 5-15-48
Baltimore, Md.

**By its 6 to 0 decision Court upheld the right of persons restricting the sale of their homes, but made judicial enforcement of such agreements illegal.**

WASHINGTON on Monday, the U.S. Supreme

In other words, a man can refuse to sell his home if he so desires, but no court, police officer or other law enforcement agency can interfere if an owner decides to sell to someone of any race whatsoever.

Since the covenant cases were first argued and more so since the decision was handed down, emphasis has been placed on the fact that covenants against colored persons cannot be enforced.

In reality, the decision does bar enforcement of them against persons of race or color.

And since the State and Federal laws uphold the privileges of all persons regardless of race, color, creed or nationality, it is clear that the decision covers all minorities —colored people, Jews, Italians, Poles, Japanese Americans, Catholics, Protestants, etc.

That the cases did not affect the rights of colored persons alone reflected also in the fact that a together 23 important civil rights organizations filed briefs with the Supreme Court before the hearings.

Those organizations included the American Jewish Congress, the CIO, the AFL, the Indian League, the Protestant Council of New York, the Unitarian Church, the Congregational Church and the Elks.

The unanimous decision was based in all four cases on the 14th Amendment of the Constitution, which says:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The decision in the District of Columbia cases was based also on the Civil Rights Act, which Congress enacted to protect all persons alike.

However, the Amendment and the Act were not the only bases for the decision. According to Chief Justice Vinson, who wrote the opinion, enforcement of the housing covenants is also contrary to public policy and in violation of many treaties. That is made clear in the following excerpt from the opinion: 5-15-48

"But even in the absence of the statute (Civil Rights Act), there are other considerations which would indicate that enforcement of restrictive covenants in these cases is judicial action contrary to the public policy of the United States, and as such should be corrected by this Court in the exercise of its supervisory powers over the courts of the District of Columbia. Sat.

"The power of the Federal Courts to enforce the terms of private agreements is at all times exercised subject to the restrictions and limitations of the public policy of the United States as manifested in the Constitution, treaties, Federal statutes, and applicable legal precedents."

**Regarding the Michigan and Missouri cases,** it was pointed out that the States did not leave private individuals free to act as they saw fit.

Instead, it was said, they made available to such individuals full backing of the government in their attempt to deny people the right to buy property which they could pay for and which the owners were willing to sell.

In his concurring opinion, Justice Frankfurter pointed out that there was no question as to the only possible conclusion.

He pointed out that the rights involved are so basic that "after the Civil War their protection against invasion by the States was safeguarded by the Constitution." (The Civil Rights Act was passed in 1866.)

## Lawyer To Quit U.S. Bar Over Covenant Cases

Chicago Defender
5-22-48

WASHINGTON— William L. Hillyer, 80-year old lawyer, asked to be permitted to resign from the bar of the Supreme Court after 56 years following the Court's recent decision in the restrictive covenant cases. Sat 5-22-48

He stated, "After careful consideration of the decisions handed down last year in the California tidelands cases, and on May 4 in the covenant cases, I came to the conclusion that I did not want to be associated further with a court that was passing judgments of that character."

Although he could give no specific phrases or sections of the Court's decision on covenants to which he objected, he said his disapproval of the justices on this issue was "because they acted contrary to what has been the law of the land for years." Sat 5-22-48

## Negro Named To Supreme Court Law Clerk Post

Memphis World
5-21-48
120

**By Louis Lautier**

Washington, D. C., (SNS) Justice Felix Frankfurter of the United States Court has named for the first time in the history of the court a colored youth as his clerk.

The youth is William T. Coleman, Jr. 26, married and the father of one child. He lives at 232 West Earlham Terrace, Germantown, Pa. He is serving this year as law clerk for Judge Herbert F. Goodrich of the Third United States Circuit of Appeals in Philadelphia, and will assume his duties as Justice Frankfurter's law clerk at the beginning of the next term of court.

Mr. Coleman did his undergraduate work at the University of Penna. receiving the Bachelor of Arts degree He graduated from the Harvard University law school in 1946, Magna Cum Laude, and stood first in his class. He also did post graduate work at Harvard.

He served in the Army Air Corps from 1943 to 1946, coming out a first lieutenant. He is the son of the executive director of the Wissihickon Boys club in Germantown.

12d 1948

Alabama Electorial Votes

# High Court Refuses Shift Of Alabama Votes to Truman

The New York Times
Dec. 7, 1948

By CLAYTON KNOWLES
Special to THE NEW YORK TIMES.

WASHINGTON, Dec. 6—Refusal of the Federal Supreme Court to order Alabama's eleven Presidential electors to cast their ballots for President Truman virtually foreclosed today the last hope of swinging any big bloc of States' Rights Democratic electors to the National Democratic ticket.

The court rejected two requests for an injunction prohibiting the Alabama electors from voting for any persons other than "the duly nominated candidates of the Democratic party." One application was made by Gov. James E. Folsom of Alabama, the other by three voters of the State.

With Alabama's electoral vote due to be cast Dec. 13, the last remaining legal remedy would be a request for a rehearing before the court, but there was no move in that direction indicated.

Associate Justice Hugo Black took no part in the case, presumably because Alabama is his native state.

The Democratic National Committee, an interested party despite the fact that the President did not need the Alabama vote to be elected, declined to comment on the court's action. There was a disposition to stand on Mr. Truman's statement last week that he was not seeking and did not want electoral votes pledged to the Thurmond-Wright States' Rights ticket.

Senator Allen J. Ellender of Louisiana, who has been active in seeking to swing the States' Rights electoral votes to the President, said when informed at Houma, La., of the court's action:

"I think Governor Folsom was just more or less playing a little politics in instituting his suit. He could not have been serious."

Mr. Ellender doubted that Louisiana's ten electoral votes, pledged to the States' Rights ticket, would be switched to Mr. Truman. He said that several of the State's electors had voiced a disinclination to default on their campaign pledges.

As matters stand, forty electors were chosen on Nov. 2 pledged to the States Rights' ticket. There were eleven in Alabama, ten in Louisiana, nine in Mississippi, eight in South Carolina and two of Tennessee's twelve. The day after electon one of the two Tennessee electors said that he would switch.

If he does, Mr. Truman will have 303 electoral votes, thirty-seven more than the requisite majority, when he takes office. Governor Dewey will have 189 and Gov. J. Strom Thurmond of South Carolina thirty-nine.

Alabama was the only state where the voters were not able to ballot for a Truman-Barkley slate of electors. This situation came about when the States' Rights group took over the Democratic state organization and in the primary put over an anti-Truman slate of electors.

A state law, enacted in 1945, required that electors of any party must vote for candidates of that party selected in national convention and, since the anti-Truman electors ran under the rooster, traditional Democratic emblem, it was argued that they could not vote against the President.

The State Supreme Court, however, held that law unconstitutional earlier this year when Mr. Folsom, seeking to stop the anti-Truman movement, had gone to it for an opinion.

12d 1948

General

# HIGH COURT UPSETS YOUTH'S CONVICTION

## 5-to-4 Decision Attacks Police of Ohio City as Forcing Boy of 15 to Tell Murder Role

Special to THE NEW YORK TIMES.

WASHINGTON, Jan. 12—A denunciation of alleged police methods in Canton, Ohio, was written by four justices today when the Supreme Court by five to four reversed the murder conviction of John Harvey Haley, 15-year-old Negro.

Justice William O. Douglas wrote a scathing opinion, shared by Justices Hugo L. Black, Frank Murphy and Wiley Rutledge. Justice Felix Frankfurter concurred in the result, without, however such severe language.

Incidentally, Mr. Frankfurter announced that he did not believe in capital punishment.

Justice Harold H. Burton presented a dissent, shared by Chief Justice Fred M. Vinson and Justices Stanley Reed and Robert H. Jackson.

In this case, William Karam, a confectioner of Canton, was shot to death in October, 1945. Haley's asserted confession said he acted as a lookout, while two boys, aged 16 and 17, went inside to rob the store. Haley was found guilty of first degree murder. The jury urged mercy and he was sentenced to life in prison.

For the majority, Justice Douglas said Haley was kept "incommunicado" for three days, during which time his lawyer twice was denied admission. His mother, "his closest friend," was not allowed to see him for five days, said Mr. Douglas. Haley asserted he was beaten, but the police denied this. They said he been warned of his constitutional rights as to making or refusing a confession.

### Says Basic Law Is Violated

Saying the means to obtain the confession violated the Constitution, Justice Douglas added:

"What transpired would make us pause for careful inquiry if a mature man were involved, and when, as here, a mere child—an easy victim of the law—is before us, special care in scrutinizing the record must be used.

"Age 15 is a tender and difficult age for a boy of any race. He cannot be judged by the more exacting standards of maturity. That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early 'teens.

"This is the period of great instability which the crisis of adolescence produces. A 15-year-old lad, questioned through the dead of night by relays of police, is a ready victim of the inquisition."

"The age of petitioner," Mr. Douglas said, "the hours when he was grilled, the duration of his quizzing, the fact that he had no friend or counsel to advise him, the callous attitude of the police toward his rights combine to convince us that this was a confession wrung from a child by means which the la wcould not sanction. Neither man nor child can be allowed to stand condemned by methods which flout constitutional requirements of due process of law."

Mr. Frankfurter concluded that whether the confession was "voluntary" or "coerced" was "not a matter of mathematical determination," but required "psychological judgment." He felt that the confession should have been excluded and the conviction not allowed to stand.

"A lifetime's preoccupation with criminal justice, as prosecutor, defender of civil liberties and scientific student naturally leaves one with views," he continued. "Thus, I disbelieve in capital punishment. But as a judge I could not impose the views of the very few states who through bitter experience have abolished capital punishment upon all the other states by finding that 'due process' proscribes it."

For the dissenters, Justice Burton said the undisputed facts" left comparative little need for such a confession as was signed by Haley." He said that Haley gave the other boys a pistol and there was nothing to indicate any other pistol in the case.

### Says Rights Were Guarded

It was common knowledge, he remarked, that many felonies were committed by minors; and an obligation "attaches to law enforcement officials to punish, prevent and discourage such conduct by minors as well as adults." Unusual care was taken to preserve Haley's rights as a minor, Mr. Burton wrote.

"It is for the trial judge and the jury under the safeguards of constitutional due process of criminal law to apply even-handed justice to the determination of factual issues," he stated.

There was no suggestion, the dissenters stated, that "racial discrimination or prejudice existed in the attitude of the witnesses, nor of the courts or of the community of Canton." The lawyer, Mr. Burton said, tried to see Haley "after" the confession; but he did not apparently become a formal attorney in the case.

He also said it was wrong for the Supreme Court to indulge in "conjecture."

In the absence of proof to upset the findings in the trial court, he stated, the police officers should not be charged "with callousness toward, or with violation of, their constitutional obligations."

# Bar Jimcrow On Tourist Boat

Special to the Daily Worker

DETROIT, Feb. 4.—The United States Supreme Court Monday handed down an important decision effecting thousands of Negro residents of this city when it ruled that the Bob-Lo Excursion Co. can not practice racial discrimination on their excursion boats going into Canada.

The company had been found guilty of violating the Michigan Civil Rights law and fined $25. The company argued that Michigan could not apply its anti-discrimination law to international operations.

The case judged on by the U. S. Supreme Court was that of Sarah Ray, a Negro girl who in June, 1945 was ordered off the boat when she went which 12 white girls for a day's outing at Bo-Lo island.

**The company, learning of the Supreme Court decision, said that it would alter its policy as "we have no other choice."**

The court vote was six to two. Justice Wiley B. Rutledge in a majority decision said, **"there is no national interest which overrides the interest of Michigan to forbid the type of discrimination practiced here."**

Justice Robert H. Jackson and Chief Justice Fred M. Vinson dissented.

## Higher Education for Negroes

I have read with interest the stories in The Courier-Journal covering recent decisions of the Supreme Court in civil rights cases. The excellent coverage given these decisions gives indication of the keen interest taken by your newspaper in the protection and extension of the basic rights of our people—rights which we regard as peculiarly American for we were pioneering in the legal recognition of the dignity of the human being.

In reporting on these decisions you have brought out what would appear to be a great inconsistency, which I sincerely wish you would clarify. On January 13 you carried an A.P. story on the Oklahoma decision wherein that State was ordered to provide immediate equal educational facilities to a Negro desiring admission to the Oklahoma University Law School. This news item made note of an earlier decision: "Negroes' rights to equal facilities, and to have them in institutions in their own States, had been affirmed by the high court in a Missouri case 10 years ago." On January 14 you carried a story on how Kentucky meets its educational responsibilities to its Negro citizens. The item sets forth that the State has "no graduate courses and no professional courses except a 'general engineering course at the undergraduate level" for an important segment of its population.

I wish to urge that The Courier-Journal undertake to clarify the apparent inconsistency between the policy of your State and the announced decisions of the Supreme Court.

CARL A. HALLQUIST.

Minneapolis, Minn.

# ASSAILS SUPREME COURT

## Senator Eastland Says Bar Distrusts It—Lynching Ban Hit

WASHINGTON, Jan. 21 (AP)—Senator James O. Eastland of Mississippi said today he believed that a majority of the present Supreme Court "is not judicially honest."

"I don't have any confidence in the Supreme Court, and I don't think the bar of this country has," he said during a Senate Judiciary subcommittee hearing on the constitutionality of Federal anti-lynching legislation. Contending that such a measure was not needed, he added:

"I think time has cured it; we don't have any lynchings now."

Mr. Eastland disagreed with Albert E. Arent, a spokesman for the American Jewish Congress, who argued that there was ample judicial precedent for legislation to make participation in lynching a federal crime.

# High Court Won't Intervene In SC Negro's Extradition

WASHINGTON, Feb. 2.—(AP)—The Supreme Court today refused to intervene in a legal battle by John Colier, 27-year-old Negro against extradition from New Jersey to South Carolina where he escaped from a chain gang in 1938.

Colier was sentenced to 19 months after trial in Greenwood county, S. C., on larceny and housebreaking charges. After his escape he was arrested in Newark in 1945 on a disorderly conduct charge. While serving a year in a New Jersey prison the governor of South Carolina began extradition proceedings against him.

Attorneys for Colier unsuccessfully sought a New Jersey court test of the validity of the extradition proceedings. Then they asked the Supreme Court to act.

# Boy, 15, Finds Friends in High Court

WASHINGTON

The Supreme Court voted 5-to-4 to set aside the conviction of John Harvey Haley, 15, of Canton, O., who was sentenced to life imprisonment in the holdup slaying of a confectioner in 1945.

The majority opinion, by Justice William O. Douglas, related that Haley was arrested Oct. 19 and held incommunicado from his mother or a lawyer until Oct. 25.

"Age 15 is a tender and difficult age for a boy of any race," said Douglas. "He needs someone on whom to lean lest the over-powering presence of the law, as he knows it, may not crush him.

"No friend stood at the side of this 15-year-old boy as the police, working relays, questioned him hour after hour, from midnight until dawn," said Douglas. "No lawyer stood guard to make sure that the police went so far and no farther, to see to it that they stopped short of the point where he became the victim of coercion."

The boy is a Negro.

between Detroit and Bois Blanc Island, Ontario, Canada. Under the Michigan law the Company was fined $25.00 for refusing to haul a colored girl.

The high tribunal split, 7-2. Justice Wiley Rutledge delivered the majority opinion. Justice William O. Douglass wrote a seperate concurring opinion, in which Justice Hugo Black joined. Justice Robert H. Jackson dissented Chief Justice Freu M. Vinsoh concurred in the dissenting opinion.

Conceding that the Bob-Lo Excursion Company was engaged in foreign commerce, the court held that the commerce clause of the Federal Constitution does not for-

# Fine Imposed On Company Refusing To Carry Negroes Upheld By High Court

WASHINGTON, D. C., Sept. 2-7-48 (NN rights la plicabilit PA). — The United States Supreme the case Court last Monday upheld the ap- Company

bid application of the Michigan civil rights law to sustain the company's conviction for refusing to transport Miss Sarah Elizabeth Ray from Detroit to Bois Blanc Island, commonly called Bob-Lo.

Sat. 2-7-48

Justice Rutledge said the company's business was of "highly local concern" and "the island is economically and socially. though not politically, an amusement adjunct of the city of Detroit".

" If therefore in any case a state may regulate foreign commerce, the facts here would seem clearly to justify Michigan's application of her civil rights act", the majority opinion said.

# HIGH COURT BACKS NEGRO IN SHIP BAN

New York, N.Y.

## Upholds, 7 to 2, Fine Under Michigan Law for Barring Trip in Foreign Commerce

Tues. 2-3-48

Special to THE NEW YORK TIMES.

WASHINGTON, Feb. 2—Despite the fact that the trip was in foreign commerce, the Supreme Court held today that the refusal of a steamship company to carry a Negro girl from Detroit to Bob-Lo Island, a Canadian resort, violated the Michigan civil rights statute.

The 7 to 2 opinion, announced by Justice Wiley Rutledge, was not based on racial discrimination but on the protest of the Bob-Lo Excursion Company that, because it was engaged in foreign commerce, the Michigan law should not apply. The state law commands public conveyances to provide equal accommodations for all customers, without barrier because of race, creed or color.

Justice Robert H. Jackson wrote a dissent, shared by Chief Justice Fred M. Vinson.

Bob-Lo, a corruption of Bois Blanc, is known as Detroit's Coney Island. It is in the Province of Ontario.

The Times

In June, 1945, Sarah Elizabeth Ray, the Negro girl, boarded the boat for an all-day outing, with twelve other girls, all white except herself. Once on board she was asked to leave, because of her color. When forcible ejection appeared apparent, she left. She was tendered a refund but refused. Eventually, the steamship company was fined $25 under the Michigan law. The State Supreme Court upheld the verdict.

The only question was, said Justice Rutledge, whether the commerce clause of the Constitution forbids application of the civil rights law. The commerce clause bars interference with traffic across states lines.

New York N.Y.

Concluding that the teamship operation wa in foreign commerce, Mr. Rutledge remarked: "We must be watchful of state intrusion into intercourse between this country and its neighbor. But if any segment of foreign commerce can be said to have a special interest apart from the necessity of safeguarding the Federal interest in such matters as immigration, customs and navigation, the transportation of (Bob-Lo's) patrons falls in that characterization. It would be hard to find a substantial business touching foreign soil of more highly local concern."

2-3-48

The Jackson-Vinson dissent said that if state power over foreign commerce were conceded in this instance it could logically be claimed "by every state which has a port, border, or landing field used by foreign commerce." The court, Mr. Jackson stated, admits the Bob-Lo operation to be in foreign commerce, "but subjects it to the State Police power on the ground that it is not very foreign."

# Conviction of 9 Negro Strikers Reversed

Daily Worker

Tues. 3-16-48

WASHINGTON, March 15 (UP).—The U. S. Supreme Court today reversed the convictions of nine Winston-Salem, N.C., Negroes who were sentenced to prison terms for "strike violence" in 1946. The court held they were unconstitutionally tried under a system which systematically excluded Negroes from juries.

New York, N.Y.

The court refused for the second time to review the conviction of Leon Josephson, Communist, who was sentenced to a year in jail for refusing to testify before the House Un-American Activities Committee.

The Supreme Court also:

Agreed to decide whether New York State violated the free-press guarantee of the constitution when it outlawed the best-selling book, "Memoirs of Hecate County" by Edmund Wilson on the charge of obscenity.

The New York courts had fined Doubleday & Co., publishers, $1,000 and ordered them to suppress the volume.

Tues. 3-16-48

Decided, 8 to 1, that collection of damages for rent ceiling violations is not limited to a one-year period before the suit was brought. This reversed a lower court ruling in a case involving a Mooresville, Ind., landlord.

Refused to order the release of Tony Marino, Illinois prisoner who has served 23 years of a life term. The High Court previously had ruled that Illinois violated Marino's constitutional rights in his trial for murder in 1925. But its action today left it up to the state to release or re-try him.

# SUPREME COURT SPLITS ON 'BLUE RIBBON' JURY

Daily World

Atlanta, Ga. Wed.

WASHINGTON, D. C.— (NNPA) — The United States Supreme Court split, 5 to 4, on the question of the "blue ribbon" jury system by which two stickup men were convicted of first-degree murder in Bronx County, New York.

3-31-48

On the question of the "blue ribbon" jury system itself five justices held that no issue was presented in this case that was not disposed of in the case of Fay v New York, decided June 27, 1947, also by a 5-to-4 court. The constitutionality of the New York special jury statutes was sustained in that case.

Wed.

The only discussion of this phase of the case in the majority opinion concerned the 'prediction of "blue ribbon" juries to convict. The majority observed that the 19 cases in which "blue ribbon" juries returned fifteen convictions and four acquittals in the period of from July 1, 1937, to June 30, 1946, covered by a study were too small a number to "afford a secure basis for generalizing as to the convicting propensities" of special and general juries, even if the cases were comparable.

The majority opinion, delivered by Justice Robert H. Jackson, held that the record was "utterly devoid of proof of systematic, intentional and deliberate exclusion of Negroes from jury duty."

It was admitted that on the panel of 150, from which the "blue ribbon" jury had been drawn, there were no colored persons. The official who compiled the jury lists testified that from 1946 he examined at least 500 colored persons for jury duty. For the special panel he testified he had examined about 100 colored persons and had accepted "maybe a dozen."

Justice Frank Murphy wrote the dissenting opinion, in which Justices Hugo Black, William O. Douglas and Wiley Rutledge concurred.

3-31-48

COURT:

## Covenants Against Color?

The News Week

Thirty-one nondescript houses line the south side of the 100 block of Bryant Street, N. W., in Washington, D. C. To a passer-by, there is nothing distinctive about any of them. Some are two stories high, some three. Some have porches, some haven't. All are built of brick. They stand shoulder to shoulder along the street. In a buyer's market, they would bring about $4,000 or $5,000 each.

Newsweek

Last week, behind the marble walls of the Supreme Court, the 31 drab houses were being debated in a case that might affect hundreds of thousands of property owners in the United States and have far-reaching sociological consequences. The superficial sameness of the houses wasn't nearly so important as a basic difference in their deeds. Twenty had a sentence reading: "Said lot shall never be rented, leased, sold, transferred, or conveyed unto any Negro or colored person under penalty of $2,000, which shall be a lien against said property." The other eleven didn't.

For years, only Negroes lived in the eleven houses and only whites in the twenty with restricted covenants. There was never any trouble. In 1945, four of the twenty restricted houses were sold. An Indian from the Smoky Mountains, married to a mulatto woman, bought one of them; Negroes bought the other three. Bryant Street remained quiet, but several of the white property owners started to seethe. Finally, four of them petitioned the District Court for an order declaring the sales void and forcing their new neighbors to move.

Mon. 1-26-48

In keeping with an unbroken series of precedents, Justice F. Dickinson Letts issued the order. The Court of Appeals upheld him, 2 to 1.

**The 'Undesirables':** When the issue finally reached the Supreme Court, along with similar cases in St. Louis and Detroit, the Department of Justice asked permission to file a brief. Ever since the court ruled 30 years ago that no state or city government had the right to prohibit anyone from buying or occupying a residence because of race or creed, private agreements between property owners had become so commonplace they were now the rule. The government maintained that restricted covenants had become a national problem.

There are no definite statistics on how much property in the United States is now covered by restricted covenants. In some Northern and Western cities, it has been estimated that 40 per cent of the property is covered; in others, the estimates run as high as 80 per cent. Usually, the covenants are directed against Negroes. However, the covenants have also been used against Chinese, Japanese, Koreans, American Indians, Mexicans, Armenians, and Jews.

In most states, the covenants are written to prohibit the sale of property, as well as its occupancy, by persons considered undesirable. The other states have laws against restrictions on the sale of property, and the covenants therefore deal only with occupancy. Usually, the covenants are written for stated periods—25 or 35 or 50 years. Occasionally, they have no time limit. It depends on state law.

With the Negro population in the North rapidly increasing, the result of the covenants has been to create extreme overcrowding in Negro neighborhoods. In Baltimore, for example, Negroes comprise 20 per cent of the population but they are forced to live in 2 per cent of the land area. Slums, disease, and crime have been inevitable.

Mon. 1-26-48

**Again and Again and Again:** The government's argument, delivered by Solicitor General Philip B. Perlman, was that restricted covenants were in violation of the Fifth and Fourteenth Amendments, Federal laws and treaties, and public policy. The Supreme Court had already decided that any state or city law prohibiting Negroes from buying homes in any section violated the constitutional provisions giving full property rights to Negroes.

Perlman contended that "a court which enforces a contract is not merely a mechanical instrumentality for making the agreements of the contracting parties effective." The Supreme Court, he pointed out, "has held, again and again, in an unbroken series of cases, that action is no les

about the nationwide ban on musical recordings which Petrillo put into effect on Jan. 1. Riding high, he flew off to New York with a parting warning of what he wanted from the Big Four radio networks when their AFM contracts expire Jan. 31: "More money and more men."

property, declared that a restricted covenant was ernmental because it is taken by the judi- for courts no different from any other private agree- cial rather than the legislative or executive it was equally unconstitutional for co- the same ment between property owners, and that branches of government." Since it was to uphold contracts which did 'the s unconstitutional for any legislature to re- thing. no constitutional question was involved.

In answer the white property ow

# Supreme Court Upholds Tradition of Security

Louisville Courier-Journal
Louisville Ky. Mon. 12-21-48

THOSE who are fearful for civil liberties in the United States may be encouraged by the Supreme Court's watchdog eye and scent for their violation. The latest of a long series of rulings in this connection are in the court's long tradition.

In one case, the trial court is ordered to look again into the complaint of a former German countess, convicted of helping Nazi spies in wartime, that an F.B.I. agent misled her into waiving her right to counsel. In another, Mississippi courts are rebuked for upholding the intent-to-rape conviction of a young Negro on a confession he claims to have been extorted by threats. In a third, California is informed that it must restore to the American-born son of Japanese parents property seized from him when the war was on. The property was a gift from the parents, and the California law forbids ownership of land by aliens who, as in the case of foreign-born Japanese, are not eligible for citizenship. Ky.

The real issue in the California appeal was the law's constitutionality, on which no ruling came. However, the court moved swiftly to seize upon the obvious point, that the son was the victim of prejudice inflamed by war, and that this was improper. In a single day the Supreme Court has broadened the area of security under the American idea—and charted it more clearly. Coming closely after the Oklahoma university case, the rulings make the national policy unmistakable. L. J. 6-22-48

# Court Refuses To Review Porters Suit

Daily World
Atlanta, Ga.
Wed. 5-26-48

## Randolph, Webster Appeal Denied By Highest Unit

WASHINGTON, D. C.—(NNPA) The United States Supreme Court last Monday refused to review the judgment of the Eighth United States Circuit Court of Appeals in a suit brought by A. Phillip Randolph and Milton P. Webster, president and vice president, respectively, of the Brotherhood of Sleeping Car Porters.

The defendants in the case were the Missouri-Kansas-Texas Railroad Company of Missouri,, the M-K-T of Texas, and the Brotherhood of Railroad Trainmen.

The judgment, of which a review was sought, reversed a decision of the United States Court for the Western District of Missouri, which restrained the trainmen from interfering with and inducing and coercing the railroads to cancel a contract between the carriers and the porters providing for certain work to be performed by the porters.

**CLAIM NO REMEDY**

In reversing the District Court, the appellate court held that no matter how grievous the wrongs of the porters were, they had no remedy in equity.

Daily World

The railroads and the trainmen also appealed the decision on the ground that the circuit court erred, as did the District Court in not requiring the porters to give bond in a sum sufficient to protect the carriers from claims of the brakemen, which have accrued since June 30, 1946, at the rate of $514.90 a day by reason of the temporary injunction, and which totaled $329,536 on March 31, last. 5-26-48

Early in 1946 the trainmen demanded that the railroads terminate the contract they had with the porters, threatening to file claims on behalf of individual brakemen if the carriers did not stop train porters from performing work brakesmen claimed rightfully belonged to them. Over 600 claims were actually filed by the trainmen. Atlanta, Ga

The railroads served notice on the porters of their intention to cancel the contract and give the work in controversy to the trainmen, effective June 30, 1946. The Brotherhood of Sleeping Car Porters obtained a restraining order on June 24, 1946.

The District Court found that the conduct of the trainmen was inequitable, oppressive and unlawful. Wed

In their petition for a review, Mr. Randolph and Mr. Webster attacked the holding of the Court of Appeals that a proceeding before the First Division of the National Railroad Adjustment Board, five of whose ten members were appointed and paid by seven unions which do not admit colored workers to membership, constituted a fair and equitable remedy. Atlanta Ga

Colored railroads employees are excluded from membership in the Brotherhood of Railroad Trainmen. The porters had been performing the work in controversy for more than forty years. Daily World

According to Mr. Randolph and Mr. Webster, the refusal of the Supreme Court to review the case will result in many train porters losing their jobs, those who are retained having their hours lengthened and wages increased, and otherwise suffering irreparable damages. 5-26-48

# Supreme Court Cracks The Old Solid South

The Courier-Journal
Louisville, Ky.

TRUTH and basic democracy have caught up with the treasured fiction of the South's one-party, white-supremacy school. This was the claim that a primary election is a private arrangement from which anybody may be excluded—meaning, of course, Negroes. As almost everybody had come to expect, the Supreme Court at last has put an end to the pretense. Louisville, Ky.

There was no final dictum in the case, although a clear expression of legal and moral philosophy would have been helpful. Instead, the court of final jurisdiction simply refused to review the judgment of a Circuit Court of Appeals. The latter, sitting in Richmond, Virginia, had held that a primary is part of the fundamental election process, and that no qualified citizen may be excluded from it by a subterfuge, however plausible. Tues. 4-20-48

Thus was set aside the elaborate and costly manipulations by which more than one Southern State had tried to keep its government exclusive to white persons. The attempt started in South Carolina, and it was in a case appealed from that State on which the courts acted. In 1944, the Supreme Court decided in a Texas case that any election, primary or general, that is recognized in the law, must be open to everybody. South Carolina die-hards, through Governor (now Senator) OLIN JOHNSON, contrived a special session of the legislature, to wipe the law books clean of any reference to primary elections.

They worked at it for weeks. They overhauled the statutes line by line. They even abolished the laws against election frauds. With immense sophistry they argued that if there was no letter in the law referring to primary elections, those elections would be converted into informal polls, an arrangement among club members, in which any rule of qualification would be all right. Louisville, Ky.

The idea spread with passionate hope that democracy could be kept in chains. GENE TALMADGE in Georgia, running for a fourth term as Governor, promised to do the same thing there. After his death, his son HERMAN seized control of the State Government and in his brief, lawless regime thrust through such a bill there. He was evicted from the Capitol by the court, and his legal successor vetoed the so-called "white supremacy" bill. Young TALMADGE promised to try again when and if he got to be Governor in fact, and all over the South the plan had its backers. The Courier-Journal

But now the ground is cut from under them. The South of the poll tax and the white primary, of the revolt against a federal program of civil rights, will have to try something else. Or perhaps they just will have to give up and face the facts of life in a country of which a majority is trying to live up to the principle of equal freedoms. Tues 4-20-48

There seems to be a trend toward the latter course. And there also seems, in a little more distant prospect, a good chance that the vested political tradition of the South, the insistence that only Democrats shall apply, will be going next. The Negroes will be voting now. Even the Ku Klux Klan will find at last that its fascist intimidations cannot continue. And what will be the point, then, in fealty to a single party which, after all, was held up as the "white man's" party? The Solid South has been cracked

Also, in the case of the anti-Negro real estate covenants, the Supreme Court ruled that such landlord agreements keeping Negro buyers out of certain neighborhools cannot be enforced by local courts. But the Court sidestepped the legality of such anti-Negro covenants by refusing to say that they violated the rights of Negro citizens. Thus, anti-Negro contracts are given legal existing into the political beliefs of witnesses, is constitutional, fusing to say

# The Evasive Supreme Court

The Worker
New York, N.Y.
6-27-48

ONCE AGAIN, the Supreme Court has sidestepped a vital issue concerning civil liberty.

This time, it is in the case of the CIO challenging a clause in the Taft-Hartley law which forbids unions to back political candidates. The Court, of course, threw this out. But, in doing so, it carefully refrained from anything that would weaken the main T-H clause which compels unions to certify that they have no Communists in their leadership. This clause which permits the employers to invade the unions, to dictate their personnel and policies, to split them into factions, was left completely intact. The right of the unions to decide their own internal affairs was not protected by the Court. New York, N.Y.

Similarly, in the case of the 11 anti-fascists headed by Dr. Edward Barsky and Howard Fast, the Court refused to hear their appeal from the ruling of "contempt" which the Rankin-Thomas Un-American Committee slapped on them, resulting in prison sentences and fines. The Court sidestepped the issue of whether such a Committee, pry-

ence which the Jimcrow signers can enforce themselves without being in danger of lawsuits. The Worker

In short, the Supreme Court's opinions leave intact the powers of the Un-American Committee, the Taft-Hartley invasion of the unions, and the anti-Negro covenants. New York, N. Y. Sun. 6-27-48

The fight for civil liberties will have to depend upon the plain people far more than upon judges who aid the tories by deliberately evasive opinions.

# Supreme Court 1947 Term Shows 8 to 1 Record on Race, Religion

The Courier
Sat. 7-24-48 Pittsburgh, Pa.

The table below gives the vote of each of the Justices of the United States Supreme Court in the nine decisions involving racial and religious issues handed down during the 1947 Term. The votes are classified with respect to whether they were favorable or unfavorable to expansion of constitutional guarantees in this field. FB indicates a favorable vote on broad grounds; FN, a favorable vote on narrow grounds; and U, an unfavorable vote. The blanks indicate the three abstentions in the two restrictive covenant cases. The last line gives the total number of votes in each classification of each of the Justices. The column at the right gives the same breakdown for each decision. The nature of the holding in each case is given below the table.

| | Vinson | Black | Reed | Frankfurter | Douglas | Murphy | Jackson | Rutledge | Burton | Total FB, FN, U |
|---|---|---|---|---|---|---|---|---|---|---|
| Patton ... | FB | FB | FB | FB | FB | FB | FB | FB | FB | 9, 0, 0 |
| Oyama ... | FN | FB | U | FN | FB | FB | U | FB | U | 4, 2, 3 |
| Sipuel .. | FN | FN | FN | FN | FN | FN | FN | FN | FN | 0, 9, 0 |
| Bob-Lo .. | U | FB | FN | FN | FB | FN | U | FN | FN | 2, 5, 2 |
| Fisher ..... | U | U | U | U | U | FN | U | FB | U | 1, 1, 7 |
| McCollum. | FB | FB | U | FB | FB | FB | FN | FB | FB | 7, 1, 1 |
| Shelley ... | FB | FB | — | FB | FB | FB | — | — | FB | 6, 0, 0 |
| Hurd .... | FB | FB | — | FN | FB | FB | — | — | FB | 5, 1, 0 |
| Takahashi | FN | FN | U | FN | FN | FB | U | FB | FN | 2, 5, 2 |
| Total FB FN, U | 4, 3, 2 | 6, 2, 1 | 1, 2, 4 | 3, 5, 1 | 6, 3, 0 | 1, 2, 4 | 5, 2, 0 | 4 3, 2 | 36, 24, 15 | |

*Patton v. Mississippi*, 68 S. Ct. 184 (in determining whether Negroes were excluded from jury, courts must consider long term practice, not just the one venire).

*Oyama v. California*, 68 S. Ct. 269 (presumption provisions of California Alien Land Law adverse to citizen son of ineligible alien are unconstitutional).

*Sipuel v. Board of Regents*, 68 S. Ct. 299 (State must provide equal education for Negro applicant as soon as it does for white applicant).

*Bob-Lo Excursion Company v. Michigan*, 68 S. Ct. 358 (State and equal rights law may constitutionally apply to excursion boat between Michigan and Canada). The Courier

*Fisher v. Hurst*, 68 S. Ct. 389 (Supreme Court mandate in *Sipuel* case not violated by decree permitting establishments of separate Negro law school).

*McCollum v. Board of Education*, 68 S. Ct. 461 (released time plan of religious education in public schools is unconstitutional).

*Shelley v. Kraemer* and *Sipes v. McGhee*, 68 S. Ct. 836 (State courts may not constitutionally enforce racial restrictive covenants).

*Takahashi v. Fish and Game Commission*, 68 S. Ct. (law barring commercial fishing licenses for aliens ineligible to citizenship is invalid). Pittsburgh, Pa.

## Favorable But Restricted Trend Seen

The analysis above shows a marked trend favorable to expansion of constitutional guarantees of equality, although in several cases the prevailing opinion of the Court placed the favorable result on narrow grounds.

In the *McCollum* released time case, seven of the Justices concurred in stating extremely broad grounds. The *Patton* decision involved a rather narrow question concerning the well-established prohibition of racial discrimination in selecting juries, and the nine Justices united in a brief opinion containing no qualifications. The two restrictive covenant decisions stopped short of holding such clauses void, but placed prohibition of enforcement on the broadest possible grounds. Sat. 7-24-48

On the other hand, the Court refused in the *Oyama* and *Takahashi* cases to declare that regardless of the extent of the State's power over its land and wild life resources, it could not arbitrarily exercise that power in a racially discriminatory fashion. The *Bob-Lo* case was decided on grounds probably applicable only to the facts there involved. The *Sipuel-Fisher* litigation over the Oklahoma Law School must be regarded as a clear setback in the effort to establish in law what the President's Committee on Civil Rights has already found as a fact, that the existence of "separate but equal" facilities is a myth.

# American Jewish Congress Report Says Last Term U. S. Supreme Court "Most Liberal" In Recent History

Memphis Ruth Memphis, Tenn.
Tue. 7-23-48

The race relations decisions of the United States Supreme Court at its last term were the most liberal of any term in recent Supreme Court history, Shad Polier, Vice-President of the American Jewish Congres,s announced today in making public, a detailed analysis of such decisions prepared by the Commission on Law and Social Action of the American Jewish Congress.

Of the nine cases before the Court involving group relations, eight resulted in rulings extending constitutional guarantees, Mr. Polier explained. Only in the second Oklahoma Law School case, Fisher vs Hurst, in which the Court declined to rule that as a matter of law segregation was tantamount to disorimination, did the protection of civil rights for minorities receive a set back, he added.

The American Jewish Congress report also analyzed the individual voting records of the nine justices, classifying them on a basis of a favorable vote on a broad basis, a favorable vote on a narrow basis and an unfavorable vote. The best individual record, according to this analysis, was that of Mr. Justice Murphy, who had six broad favorable votes in the nine cases. The worst individual records were those of Justices Reed and Jackson, who each had one broad favorable, two narrow favorable and four unfavorable votes.

The cases involved exclusion of Negroes from Mississippi jury; the anti-Japanese California Land Law; the two Oklahoma Law School cases involving a segregated school; a Michigan steamship company which denied access to a Negro; religious instruction in public schools during "released time" in Champaign, Illinois; the two restrictive covenants in housing barring Negroes, and the California Statute denying commercial fishing licenses to aliens ineligible to citizenship.

# *Supreme Court Upholds Alabama Ruling On Negro*

Tues. 6-22-48
Montgomery Advertisers

WASHINGTON—(AP)—The Supreme Court Monday ruled against an Alabama Negro sentenced to death in the criminal assault of a 14-year-old white girl.

It declined to order a state court hearing on his assertion that a "confession" was extorted from him by force and violence.

The Negro, Samuel Taylor, was convicted in Mobile County Circuit Court Nov. 19, 1946, on the eve of his execution, scheduled for Sept. 19, 1947, he asked the Alabama Supreme Court to permit a hearing in the Circuit Court on his new assertion regarding the "confession." The State Supreme Court dismissed his request. Attorneys for Taylor then appealed to the high tribunal.

Justice Burton delivered the 5-3 decision. Justice Murphy dissented and was joined by Justices Douglas and Rutledge. Justice Black took no part.

Alabama sent eight photographs of Taylor, taken in the nude. The state said they were taken immediately after he made the asserted "confession" and "disclose no indication of physical violence or bodily injuries."

Justice Murphy in dissenting said that there is nothing to prevent Taylor from going into Federal District Court and beginning a habeas corpus proceeding. Murphy commented that by that step he might "yet obtain the hearing which Alabama has denied him." Tues. 6-22-48

Murphy advocated that any confession which is shown "to be the product of mental or physical coercion" should be declared void "even though the confession is in fact true and even though there is adequate evidence otherwise to sustain the conviction."

12d 1948

Missouri (Gaines Case, 1938)

# Negro Whose Case Was Cited In Oklahoma Case Is Missing

1-18-48 12d mo, The Courier-Journal Louisville, Ky.

Special to The New York Times and The Courier-Journal.

St. Louis, Jan. 17.—The Negro whose case the Supreme Court cited this week as the precedent in commanding Oklahoma to provide almost immediate legal education for a Negro woman is listed as missing since 1939 by his family and friends here.

Lloyd L. Gaines, who carried his fight to the Supreme Court when the University of Missouri refused to admit him to its Law School, left St. Louis in 1939, a few months after the high court's decision on December 12, 1938. Sun. 1-18-48

**Sent Letter In 1939.**

The Courier-Journal

His mother, Mrs. Collie Gaines, 76, who has been ill, had one letter from him in Chicago in 1939. Since then his mother, three brothers, and a sister report they have not heard from him.

C. R. Redmond, one of the lawyers who prepared and prosecuted his case, has had no word from him. Redmond said that he had heard Gaines spent some time in Chicago and later was reported to have attended the University of Michigan, but there is no confirmation of this.

James Gaines, a brother, said that Lloyd, now about 35, worked while the case was in the courts at a gasoline service station and later taught school in Webster Grove, a suburb. "But aside from that one letter he wrote to mother, we haven't heard from him," James said.

Louisville, Ky. Sun. 1-18-48

**Believes Him Still Alive.**

James said the family had asked police in various cities to broadcast descriptions of him as a missing person but nothing came of these appeals. The family believes he is still alive and living in some metropolitan center.

As far as is known here, Lloyd never attended law school. After the Supreme Court decision, written by Chief Justice Charles Evans Hughes, the State established a Law School here in the fall of 1939 for Negroes as a branch of Lincoln University, Negro college. The court ruled that Lloyd must be either admitted to the university or a separate law school set up at Lincoln. There are some 30 law students enrolled in the school here. The Courier-Journal

**Was Graduated From Lincoln.**

Lloyd was the only member of his family to attend college. He was graduated from Lincoln. The family moved here from Mississippi when he was a youngster. He was the youngest of the children. Louisville, Ky.

The Gaines case also caused the establishment in 1941 of a Journalism School at Lincoln when a Negro woman student sought to enter the University of Missouri School of Journalism at Jefferson City. Sun 1-18-48

# High Court Orders State To Provide Immediately For Her Education in Law

Washington, D. C.—The supreme court Monday unanimously ordered Oklahoma to provide immediately for educating of a Negro girl who desires law training.

The court did not specify how the state should meet its requirement. It ordered that a Negro student who has applied for admission to the University of Oklahoma must be given facilities equal to those provided for white student.

The court also set aside the conviction of John Harvey Haley, a Canton, Ohio, Negro who was sentenced at the age of 15 to life imprisonment in a fatal shooting. The court said a confession was obtained by a "disregard of the standards of decency."

The court directed that Oklahoma must provide facilities for the Negro student "as soon as it does for applicants of any other group."

The justices, however, took no action on a request that they declare segregation of white and Negro students unconstitutional.

The girl, Ada Lois Sipuel, was refused admission to the Oklahoma university's law school when the state had no similar educational facility for teaching law to Negroes.

**Swift**

The court acted with unusual swiftness in deciding the case. It heard arguments last Wednesday and Thursday.

Presumably, the court acted quickly in order that the student may be admitted to a law course by Jan. 15 when the new law school semester begins.

**14th Amendment**

Thurgood Marshall, attorney, argued that only by admitting her promptly to the University of Oklahoma can that state comply with the Constitution's 14th Amendment providing that no state may deny to any person equal protection of the laws.

A 1939 supreme court decision in a similar case from Missouri has been interpreted as permitting states to use separate but equal education systems.

**Court's Intention**

Marshall argued it was apparent that the high tribunal intended to require in 1939 that the Negro involved must be admitted to the University of Missouri immediately, because no equal facilities were then available for Negros in that state.

"That decision has been whittled down by lower courts," he said, "until today it is taken to mean that a state may force a Negro to demand separate education facilities, and may make him wait interminably until those facilities are established."

# Original Opinion In The Sipuel Case

HOUSTON — In order that the readers may know exactly what the Supreme Court said in the Sipuel case, we submit herewith the original opinion, or order, of the court in that case:

**IN THE SUPREME COURT OF THE UNITED STATES**
**MONDAY, JANUARY 12, 1948**

ADA LOIS SIPUEL )
—Vs— ) No. 369—October 12, 1947
Board of Regents of the ) On writ of Certiorari to
University of Oklahoma ) The Supreme Court of the
et at, Respondents ) State of Oklahoma..

**PRE CURIAH.—**

On January 14, 1946, the petitioner, a Negro, concededly qualified to receive the professional legal education offered by the State, applied for admission to the school of law of the University of Oklahoma, the only institution for legal education supported and maintained by the taxpayers of the State of Oklahoma. Petitioner's application for admission was denied, solely because of her color.

Petitioner then made application for a writ of mandamus in the District Court of Cleveland County, Oklahoma. The writ of mandamus was refused, and the Supreme Court of the State of Oklahoma affirmed the judgment of the District Court. Oklahoma.———, 180 P. 2d 135 We brought the case here for review.

The petitioner is entitled to secure legal education afforded by a state institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the State. The State must provide it for her in conformity with the equal protection clause of the Fourteenth Amendment and provide it as soon as it does for applicants of any other group. **Missouri ex rel. Gaines v. Canada, 305 U. S. 337 (1938).**

The judgment of the Supreme Court of Okklahoma is reversed and the case is remanded to that court for proceedings not inconsistent with this opinion.

The mandate shall issue forthwith.

# SELF-INJURY THRU RACE PREJUDICE

The U. S. Supreme Court recently ruled that the State of Oklahoma must provide as good educational facilities for Negroes as for white persons. The ruling will open the doors of the University of Oklahoma to a young Negro woman who was refused admission to its law school.

The Negro applicant is an honor graduate of a Negro University, where she took preparatory courses. She was refused admission to the State University two years ago because Oklahoma's constitution sanctions racial segregation in schools. The State Supreme Court denied the young Negro student's appeal, but the United States Supreme Court overruled the State Court's decision.

This is one of an increasing number of incidents which have recently occurred in the United States to soften the hard crust of racial prejudice which exist. It will encourage many citizens who, in hundreds of communities across the country, are striving to put into practice the principles on which the U. S. were founded.

Those who practiced racial prejudice apparently do not realize its subversive influence. It is injurious to the progress of the nation, for when any section of the population is denied good educational opportunities, in the long run the nation will suffer in one way or another. Had the United States provided equal opportunities for education and econonomic security to Negroes and other minority groups, its development would probably have been accelerated.

There is no scientific support for the theory that white people are superior. On the contrary, there is much evidence in the U. S. that Negro children are often born with exceptional ability, if given the opportunity, may turn out to be geniuses. The late Dr. Carver became a genius in science despite the handcaps which slavery and poverty placed on him in his youth.

There are other examples: — three-year-old Margaret Harris of Chicago recently gave a concert playing Bach and Mozart compositions; — 11-year-old Phillipa Schuyler has composed a symphony which was performed by the New York Philarmonica Orchestra; — Craig Work, the son of Negro Social Workers, became the country's youngest Ph. D. at the age of 19. When he was 10 years old his I. Q. was reported to be 190.8. He is one of the few Negro scientists doing research at the U. S. atomic bomb project. And there might have been many more such able workers had they been given a chance.

Oklahoma (Sipuel Case)

12d 1948

**VICTORIOUS STUDENT** Ada Lois Sipuel last week won a suit against the state of Oklahoma which she began in 1946 after being denied entrance to the state's law school. Because the U.S. Supreme Court ruled Oklahoma must provide Negroes with the same education it gives to whites, Student Sipuel returned to Oklahoma from her present home in Providence, R.I.

OKLAHOMA HAS MADE AN UNAPPETIZING spectacle of itself in trying to comply with the letter but not the spirit of a decision handed down by the United States Supreme Court. Last week, when the court told the state it must provide a law-school education for Ada Lois Sipuel, we noted that the judges had, regrettably, failed to rule on the pernicious "equal but separate" doctrine. Oklahoma promptly took advantage of this loophole and broke all course records in establishing a spanking new law school for the convenience of the Negro girl and its own segregation laws. A curriculum, a classroom in the state capitol, and a faculty of three white professors—two of them Harvard men—were unearthed and thrown together before you could say Jim Crow. Oddly enough, Miss Sipuel isn't satisfied. She will not attend the new "school" but will carry her fight back to the Supreme Court. If its members have a decent regard for human dignity, they will hear her plea, order Oklahoma to admit her to its university, and dispel, once and for all, the myth of "equal but separate."

## The Supreme Court Asks Some Pointed Questions

THERE is a prospect that the fictions by which several States keep Negroes out of their colleges, particularly the professional schools, are in for some critical analysis by the Supreme Court. Several of the justices have asked embarrassing questions. Listening to an appeal from Oklahoma, where a young Negro woman was denied admittance to the State university's law school, they wanted to know why Oklahoma hasn't provided equal opportunity for education for all its citizens, as previous rulings of the court directed.

The answer, a bit lame, from Oklahoma's Assistant Attorney General, was that nobody has asked the Board of Regents to do so. The young woman in question, it seems, shouldn't have applied to enter the university but should have asked the regents to set her up a law school in the college for Negroes. Then it would have to be done, he said—adding, in effect, sooner or later.

But how is the applicant's right to opportunity to be served as it should be, instantly upon its being invoked? The justices seemed to suggest that the institutions of democracy are institutions of democracy, or they are not. If so, the point was, they should expand or contract automatically like the flame of a burner as a pet-cock is turned, even if only faintly. But the flame and the pet-cock are there ready all the time. It shouldn't be necessary to build a new fire to warm a newcomer to the circle, and have him wait, cold, until it catches up.

The justices' questions bear certain interesting intimations. Chief among them is the vague suggestion that the idea of regional universities for Negroes, supported by the race-separation States, will bear looking at. True, you can't tell much about what is on a man's mind by a question he asks. He may simply be curious, or in a mood for sport. But if the questions asked from the high bench in the Oklahoma case are projected to conclusion, they may indicate a thought that a person, white or colored, has a right to the institutions that are at hand, and not be forced to go out of his State or wait for a college to be built to get the education he wants and demands. It is a point which Kentucky, along with other race-separation States, might well be thinking of seriously and foresightedly.

oma Law School was rejected because she is colored, must be furnished legal education by the State of Oklahoma as quickly as it does for applications of any other group.

The mandate of the Court was issued immediately and sent Monday by air mail to the Supreme Court of Oklahoma.

The case had been under consideration by the High Tribunal only since last Thursday.

sion was indicated by Justice Felix Frankfurter during argument of the case last Thursday in his question-ing of counsel for the State as to what action the State would take if the case should be remanded.

struction in the University of Oklahoma until a separate institution is

(2) It may have temporary mixed

(3) It may have mixed instruction.

(4) It may have mixed instruction.

The text of the Per Curiam opinion follows:

On January 14, 1946, the petitioner concededly qualified to receive the professional legal education offered by the State, applied for admission to the School of Law of the University of Oklahoma, the only institution for legal education supported and maintained by the taxpayers of the State of Oklahoma. Petitioner's application was denied, solely because of her color.

Petition then made application for a writ of Madamus in the District Court of Cleveland County, Oklahoma. The writ of Mandamus

# Unanimous Ruling Clears Road For Legal Education

By LOUIS LAUTIER

WASHINGTON, D. C.—(NNPA) The United States Supreme Court decided Monday that Miss Ada Lois Sipuel, ...those application for admission to the University of Okla...

Oklahoma (Sipuel Case)

12d 1948

**VICTORIOUS STUDENT** Ada Lois Sipuel last week won a suit against the state of Oklahoma which she began in 1946 after being denied entrance to the state's law school. Because the U.S. Supreme Court ruled Oklahoma must provide Negroes with the same education it gives to whites, Student Sipuel returned to Oklahoma from her present home in Providence, R.I.

OKLAHOMA HAS MADE AN UNAPPETIZING spectacle of itself in trying to comply with the letter but not the spirit of a decision handed down by the United States Supreme Court. Last week, when the court told the state it must provide a law-school education for Ada Lois Sipuel, we noted that the judges had, regrettably, failed to rule on the pernicious "equal but separate" doctrine. Oklahoma promptly took advantage of this loophole and broke all course records in establishing a spanking new law school for the convenience of the Negro girl and its own segregation laws. A curriculum, a classroom in the state capitol, and a faculty of three white professors—two of them Harvard men—were unearthed and thrown together before you could say Jim Crow. Oddly enough, Miss Sipuel isn't satisfied. She will not attend the new "school" but will carry her fight back to the Supreme Court. If its members have a decent regard for human dignity, they will hear her plea, order Oklahoma to admit her to its university, and dispel, once and for all, the myth of "equal but separate."

## The Supreme Court Asks Some Pointed Questions

THERE is a prospect that the fictions by which several States keep Negroes out of their colleges, particularly the professional schools, are in for some critical analysis by the Supreme Court. Several of the justices have asked embarrassing questions. Listening to an appeal from Oklahoma, where a young Negro woman was denied admittance to the State university's law school, they wanted to know why Oklahoma hasn't provided equal opportunity for education for all its citizens, as previous rulings of the court directed.

The answer, a bit lame, from Oklahoma's Assistant Attorney General, was that nobody has asked the Board of Regents to do so. The young woman in question, it seems, shouldn't have applied to enter the university but should have asked the regents to set her up a law school in the college for Negroes. Then it would have to be done, he said—adding, in effect, sooner or later.

But how is the applicant's right to opportunity to be served as it should be, instantly upon its being invoked? The justices seemed to suggest that the institutions of democracy are institutions of democracy, or they are not. If so, the point was, they should expand or contract automatically like the flame of a burner as a pet-cock is turned, even if only faintly. But the flame and the pet-cock are there ready all the time. It shouldn't be necessary to build a new fire to warm a newcomer to the circle, and have him wait, cold, until it catches up.

The justices' questions bear certain interesting intimations. Chief among them is the vague suggestion that the idea of regional universities for Negroes, supported by the race-separation States, will bear looking at. True, you can't tell much about what is on a man's mind by a question he asks. He may simply be curious, or in a mood for sport. But if the questions asked from the high bench in the Oklahoma case are projected to conclusion, they may indicate a thought that a person, white or colored, has a right to the institutions that are at hand, and not be forced to go out of his State or wait for a college to be built to get the education he wants and demands. It is a point which Kentucky, along with

oma Law School was rejected because she is colored, must be furnished legal education by the State of Oklahoma as quickly as it does for applications of any other group.

The mandate of the Court was issued immediately and sent Monday by air mail to the Supreme Court of Oklahoma.

The case had been under consideration by the High Tribunal only since last Thursday. Its quick decision was indicated by Justice Felix Frankfurter during argument of the case last Thursday in his question-ing of counsel for the State as to what action the State would take if the case should be remanded.

The state may take one or four courses to comply with the Decision of the Court of Law (1) It may establish a segregated law school.

(2) It may have segregated instruction in the University of Oklahoma.

(3) It may have temporary mixed instruction in the University of Okla

(4) It may have mixed instruction.

The text of the Per Curiam opinion follows:

On January 14, 1946, the petitioner, A Negro concededly qualified to receive the professional legal education offered by the State, applied for admission to the School of Law supported and maintained by the taxpayers of the State of Oklahoma. Petitioner's application was denied, solely because of her color.

Petition then made application for a writ of Madamus in the District Court of Cleveland County, Oklahoma. The writ of Mandamus

## Unanimous Ruling Clears Road For Legal Education

By LOUIS LAUTIER

WASHINGTON, D. C.—(NNPA) The United States Supreme Court decided Monday that Miss Ada Lois Sipuel, whose application for admission to the University of Okla-

was refused, and the Supreme Court of the State of Oklahoma affirmed the judgement of the District Court. We brought the case here for review.".

" The petitioner is entitld to secure legal education afforded by a state institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the State."

"The State must provide it for her inconformity with the equal protection clause of the 14th Amendment and provide it as soon as it does for any other group."

"The judgement of the Supreme Court of Oklahoma is reversed and the case is remanded to that Court for proceedings not inconsistent with this opinion."

The case of Miss Ada Lois Sipuel, which had been filed by Thirgood Marshall, national counsel for the NAACP, and local attorneys of Oklahoma, climaxed an uphill fight for ecual educational opportunity in Oklahoma. The case attracted nationwide publicity, and will have major effect on future educational trends involving Negroes in the United States.

# Supreme Court Orders Oklahoma To Admit a Negro to Law School

By LEWIS WOOD

Special to THE NEW YORK TIMES.

WASHINGTON, Jan. 12—In a move of startling suddenness the Supreme Court today commanded Oklahoma to provide virtually immediate legal education for a Negro woman. The court acted under the constitutional guarantee of equal protection for all citizens.

It was only last Thursday that the high court heard her lawyers demand that 28-year-old Ada Lois Sipuel be admitted to the University of Oklahoma Law School, the only state institution of the kind. The justices answered today in a unanimous, unsigned, mimeographed, one-page order that Oklahoma must afford her the legal training and "provide it as soon as it does for applicants of any other group."

The tribunal did not specify how Oklahoma must meet the requirements, but it rested its command on its eight-year-old decision that Missouri must either admit a Negro to the State University Law School or establish a law school at a state institution for Negroes.

In the unanimous order the Supreme Court took no action on a request to declare unconstitutional segregation of white and Negro students.

In last Thursday's arguments it was brought out that Miss Sipuel sought entrance to the university Law School two years ago, but was denied because of Oklahoma's race segregation laws. A lower court and the Oklahoma Supreme Court ruled against her.

Meanwhile, Oklahoma lawyers conceded, nothing had been done to set up a separate law school she could attend. Assistant Attorney General Fred Hansen of Oklahoma said no steps had been taken because it was felt that she would not desire to attend a separate institution; that she wished to go to the university Law School.

The Supreme Court took cognizance of the date when Miss Sipuel first sought admission.

"On Jan. 14, 1946," the order stated, "the petitioner, a Negro, concededly qualified to receive the professional legal education offered by the state, applied for admission to the School of Law of the University of Oklahoma, the only institution for legal education supported and maintained by the taxpayers of the State of Oklahoma. Petitioner's application for admission was denied, solely because of her color."

The order then recited that Miss Sipuel was turned down by the District Court of Cleveland County anad the State Supreme Court.

"The petitioner," the quickly prepared document went on, "is entitled to secure legal education afforded by a state institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the state."

"The state must provide it for her in conformity with the equal-protection clause of the Fourteenth Amendment and provide it as soon as it does for applicants of any other group."

### Case Sent Back to Court

Reversing the Oklahoma Supreme Court, the justices sent the case back there for new proceedings. They ordered that their mandate "shall issue forthwith" instead of the customary twenty-five days.

During the recent arguments it was agreed that Miss Sipuel possessed the needed credits for admission. She had been graduated from Langston University, the Oklahoma college for Negroes, but there is no law school there. Mr. Hansen told the closely questioning justices that the State Board of Regents have no money to set up a separate law school and would have to ask the Legislature for it.

The swiftness with which the Supreme Court dealt with the Sipuel case attracted wide attention. The jurists heard arguments on other cases Friday, and went into the regular secret conference Saturday. Customarily, at least three or four weeks, and sometimes months, intervene between arguments and decisions.

Presumably the court acted rapidly in order for Miss Sipuel to start a law course when the university law school begins Jan. 19.

There was a hint of a quick decision through questions by Justice Felix Frankfurter during the arguments. He inquired if Miss Sipuel could be admitted to the university law school; a separate class established in that school; if she could be admitted temporarily, pending establishment of a law school at Langston; and if Langston could quickly set up a law school.

The Oklahoma lawyers said the regents had power to do any of these things. However, Justice Robert H. Jackson remarked that a law school with one student would not provide "much of a law education."

### Missouri Case a Precedent

The Missouri case which the Supreme Court cited as a precedent, afftected Lloyd Gaines, a St. Louis Negro. A graduate of Lincoln University, the state school for higher education of Negroes, he tried to enter the University of Missouri Law School at Jefferson City. The university reversed him; so did the state courts.

On Dec. 12, 1938, the Supreme Court, in a ruling by Chief Justice Charles Evans Hughes, said Mr. Gaines must be either admitted to the university law school or a separate law school must be set up at Lincoln. Justice James C. McReynolds wrote a dissent, shared by Justice Piecre Butler.

In Oklahoma City, Roscoe Dunjee, national director for the National Association for the Advancement of Colored People, construed today's ruling to mean that Oklahoma must admit Miss Sipuel to the university law school.

## The Slowness of Our Courts

While the case of Ada Lois Sipuel, colored girl of Oklahoma, is good news to those who are opposed to race discrimination, yet a short sentence in the item indicates a sad situation in our courts. It was as follows: "The applicant already has been waiting two years while the case was in litigation."

No court should allow such an important case as this to be delayed for such a length of time. All rules of procedure should be suspended to pass upon such a question of law. There was no question of fact, I assume, involved in the case, and certainly not a large record to study and delay the case.

Prestonsburg, Ky. EDWARD P. HILL.

## Segregation Still Allowed

The supreme court in the Sipuel case did not rule, as the attorneys for the plantiff wanted it to rule, that segregation is an evil per se and unconstitutional.

The case was selected for this purpose. Ada Lois Sipuel had applied two years ago for admission to the University of Oklahoma law school and had been denied admission on account of her race.

In two years Oklahoma, which prohibits whites and Negroes attending the same schools, might have set up a law school for Negroes, but it did nothing. The only law school operated by the state of Oklahoma is the University of Oklahoma law school.

The supreme court in the Gaines case had held that a state must offer equal education to both races within the state. It doesn't satisfy the constitution if whites are offered education within the state and the state pays the tuition of Negro students atending out of state colleges, even if these colleges offer more than the state offers.

It would have been but one more step for the court to take, to declare that segregation in the educational opportunities to Negroes as are offered in the schools was itself unconstitutional. So the plaintiff's attorneys asked the court to so declare.

But it didn't. It said simply what it had said in the Gaines case that Oklahoma must offer both races the same educational opportunities and offer them to one race as soon as it offers them to the other.

If Oklahoma wanted to maintain one law school only then it must admit both Negroes and whites to it. If it wanted to abolish the law school for whites then the court isn't interested. If it wanted to set up a law school for Negroes that too is very well, if it be set up so as to offer the same

12d 1948 Oklahoma (Sipuel Case)

# As We See It

## Fight for Negroes' Rights Cannot Be Left to Courts

By Abner Berry

THE FIGHT for the full rights of the Negro people in the United States must take place in a larger arena than the cloistered precincts of the courts. If you don't believe that just take a look at Oklahoma today.

The two-year fight of Mrs. Ada Lois Sipuel Fisher for admission to the University of Oklahoma Law School has finally "won" her a place in a one-student Jimcrow school. That's the law. The law of the frightened ex-slaveholders who perverted the people's democracy to retain a remnant of their former empires.

Mrs. Fisher fought in the courts to establish her rights as an American citizen and a citizen of the State of Oklahoma. We would have been nearer to full democracy in this country if she had won.

•

IT IS SAFE to say that she lost—in fact we all lost—because full reliance was placed on the courts to free education in Oklahoma from Jimcrow strangulation. Courts handling a case of such importance to the people of America should be watched not only by interested ringside observers, but by militant, angry partisans.

The 13th, 14th and 15th Amendments to the Constitution were not debated and passed in the quiet judicial atmosphere of an austere court. The people were angry and aroused and concerned. The capitols of the ex-slave states rang with the democratic sentiments of the people. To have refused to ratify these amendments meant sure political death to politicians. The enforcement of these amendments needs militant actions no less.

Tom Mooney, the labor martyr condemned by the California courts, was freed by the mass action of workers and liberals throughout the world. The Scottsboro Boys might be rotting in a Montgomery prison had their defense been based on the courts alone. They were defended from Siberia to Chile and from London to Hong Kong. The Court of the People remained continually in session. Its mandate finally prevailed.

•

THE RESULTS in Mrs. Fisher's case have proven that the United States Supreme Court cannot be the court of last resort. Her fight for admission to the Oklahoma U. Law School was a brilliant one. Her lawyers and her brief attacked the separate school law and asked for a ruling against it. The Justices snarled at the defenders of Jimcrow education during the trial, attacking their positions. But—and we cannot repeat this too often—

**The court handed down a decision which permitted the State of Oklahoma to retain the Jimcrow provisions its lawyers were defending.**

The State Supreme Court caught the drift, winked, and ordered a separate Negro law school to be established in one day. The cycle was complete: A Negro had been wronged. The Supreme Court was appealed to. A democratic-sounding mandate was issued, and—the sacred Jimcrow system was upheld. All of this was done in the name of the 14th Amendment, of course. The Oklahoma court added to the historic amendment, as one of the laws governing its mandate, the separate school law of the state.

•

THE COMMERCIAL PRESS, which had greeted the Supreme Court decision last week as a triumph of the Constitution over bigotry, will now act as though they never said that. The Sipuel case is history to them, just an incident.

But there is where the fight begins. The people can now enter the case not as a "friend of the court" but as friends and defenders of democracy. Why should we allow the Governor of Oklahoma, the university regents and the State Legislature to feel as cozy as a man who had just been rescued from a drifting ice floe? Some expressions of opinion from their fellow citizens throughout the country on the Sipuel case might make the present decision a hard one to live with.

**We ought to remember that the infamous Dred Scott decision was once the law of the land. After a titanic struggle the Supreme Court outlawed that decision by adhering to the Civil Rights Laws passed during Reconstruction. Judicial attitudes, just like laws, can be changed by the struggles of the people.**

Without these struggles, the court fights for Negro rights, now veloping throughout the country can only result in bitter disillusion-

## Rejected

The supreme court of the United States has done the expected and, holding to its previous decisions, has refused to order the board of regents of the University of Oklahoma to admit Ada Lois Sipuel Fisher, a Negro woman, to its white law school.

By a seven to two ruling, the court declared that "it is clear" that Oklahoma "did not depart" from the supreme court's mandate of January 12 directing that the plaintiff be given a legal education as soon as white students are given one in that state by setting up a segregated law school for Negroes, which the Negro applicant refused to attend.

The whole matter is still in the hands of the Oklahoma district court. If it decides that the segregated school does not offer comparable legal education to that offered whites then the circuit court itself will act.

"Whether or not the order is followed or disobeyed should be determined . . . in the first instance," the supreme court said, by the Oklahoma circuit court.

There are, after all, orderly processes which should be followed in any action.

On the same day, Mrs. Fisher appealed again to the Supreme Court, contending that a segregated, hastily-established school would not actually give her equal opportunities. She asked the court to order Oklahmoa specifically to admit her to the main university.

**But the court majority said "it is clear that the (Oklahoma's Cleveland county) district court did not depart from our mandate."**

The unsigned opinion stressed that the majority was not passing on the question whether the school set up for Negroes did in fact provide her with equal opportunity.

Justices Wiley B. Rutledge and Frank Murphy dissented. Murphy said the Supreme Court should have held a hearing on whether the action taken by Oklahoma "constitutes an evasion" of the high court's order. Rutledge said Oklahoma had clearly not complied with the Supreme Court's original mandate.

It did nothing and now, the supreme court declares, must admit her and all other qualified Negroes to the University of Oklahoma law school or before it provides any legal education for anybody else must set up and operate a law school for Negroes which she can attend.

The state, the court declared, must provide the legal training for Negroes in conformity with the equal protection clause of the fourteenth amendment "and provide it as soon as it does for

## The Gaines Decision

The supreme court of the United States in its recent decision in the Sipuel case, requiring the state of Oklahoma to admit Negro students to its law school or to set up a separate law school for Negroes, reaffirmed its decision in the Gaines case, decided some years ago.

And in that case, a Missouri case, the court held that equal educational opportunities had to be offered by the state within the state to all races.

How do the Southern governors, who are now playing around with the idea of regional graduate schools for Negroes, maintained by 15 states but located in only one or another of the states, expect to make these regional schools fit in with the supreme court's decisions, unless they propose also to establish at the same time regional graduate schools for whites?

Before the governors go too far with their idea they ought to read the supreme court opinions. Their idea is logical, but does it meet the Gaines decision?

## In One Week

There is one state which has been even more stubborn than South Carolina in the matter of equalizing educational opportunities for whites and Negroes. It is Oklahoma.

The constitution and laws of Oklahoma make it a crime for Negroes to attend white schools or whites to attend Negro schools.

So two years ago when Ada Lois Sipuel, a graduate of Langston university, Oklahoma's Negro college, applied to the law school of the University of Oklahoma for admission she was

# HIGH COURT REJECTS PLEA TO HALT OKLAHOMA U. BIAS

WASHINGTON, Feb. 16 (UP).—The Supreme Court today refused to order the state of Oklahoma to admit Mrs. Ada Lois Sipuel Fisher, 23-year-old Negro, to its all-white university law school.

The justices divided 7 to 2 in the Fisher case, which was before the court for the second time. The court had ruled on Jan. 12 that Oklahoma was bound by the U.S. constitution to make a legal education as readily available to Mrs. Fisher as to any white student.

The state courts followed up that mandate by ordering the university either to admit Mrs. Fisher to the white law school, or to establish a separate law school for Negroes. The state on Jan. 26 set up a three-professor law school for Negroes.

plicants of any other group."

The decision was inevitable. What is significent about it is the speed with which the court acted. The case was argued last week. The decision was handed Monday of this week.

# Equal Rights Upheld In Okla. School Case

By WILLARD SHELTON
*Washington Bureau*

WASHINGTON

The Supreme Court yesterday ordered the State of Oklahoma "immediately" to furnish a law school education to Ada Lois Sipuel, 23, but it failed to outlaw the doctrine of "equal but separate" educational facilities under which Southern States segregate Negro and white students.

Oklahoma must give Miss Sipuel a law school education in a State institution, the Court said, but it did not direct the State to admit her to the University of Oklahoma Law School at Norman.

The State could meet the mandate of the Court, apparently, by setting up a separate law school for Negroes within the next few days with whatever public funds are available to the State Board of Regents.

It might also admit her temporarily at Norman—where the student body recently voted in her favor—while a separate law school is organized for Negroes.

### *State Will Conform*

But Dr. M. A. Nash, chancellor of the State Board of Regents, would say only that "Oklahoma will of course abide by the Court's ruling," adding that the "problem now is one to be settled by the citizens through their Legislature."

The new term at Oklahoma U. starts Thursday and Miss Sipuel plans to be there with her credentials, applying for admission.

The Court's decision—a five-paragraph order presumably written by Chief Justice Vinson—was unanimous and was handed down with extraordinary speed. Miss Sipuel's appeal was argued before the Supreme Court only last Wednesday and Thursday.

### *Same Decision*

The decision, however, did not go an inch beyond the Gaines case involving a Missouri Negro who was barred from the Law School of the State University at Columbia. Under that decision segregated educational facilities by implication were given Supreme Court tolerance.

The evidence is strong that the Court has no intention of interfering judicially with segregated school systems.

# Supreme Justices Shred Color Ruling

WASHINGTON, D. C. (UP)—Justices of the Supreme Court ripped into attorneys for the state of Oklahoma yesterday.

The attorneys were defending the policy of segregation in Oklahoma universities. The justices came back with critical questions seldom heard in the court's dignified chamber.

The extraordinary questioning came during hearing on the case of a Negro girl who applied two years ago for admission to the University of Oklahoma's law school. She was denied entrance soley because of her race.

Eight justices were present at the hearing, and all participated in the questioning of assistant state attorney-general Fred Hansen and Maurice Merrill, an attorney. In contrast, two Negro attorneys for Ada Lois Sipuel, the student, were asked only three questions during their hour-long presentation of the case.

# Time Is Running Out

The United States Supreme Court on Monday handed down a decision which serves as the latest of a series of warnings to Georgia and other Southern States that the matter of higher education for Negroes is becoming an urgent problem.

The Court ruled that a Negro woman, who had applied for admission to the University of Oklahoma Law School some one and a half or two years ago, be admitted immediately. Oklahoma has no equivalent law school for Negroes and attorneys for the State said at least two months would be required to establish such a school. This means the Negro woman, under the Court's order for immediate admittance, must be allowed to attend the law school for whites, at least until such time as a Negro law school can be established.

Although there may be just criticism of the high court for its unseemly and unprecedented haste in handing down a ruling in this case—arguments were heard only last Thursday—there can be little doubt of the justice of the decision. Southern States have been served notice repeatedly that the courts will not tolerate unequal education opportunity because of race. But as yet, very little has been done to remedy the situation.

There was a suggestion at the Southern Governors' Conference last year that Southern States band together to establish regional Negro universities to forestall just such a situation as has developed in Oklahoma.

Realizing that there can be no further procrastination, the Education Committee of the Conference, of which Georgia's M. E. Thompson is a member, has scheduled a meeting in Nashville this weekend. At that time, the possibility of joint action will be investigated and recommendations will be made.

Prompt and positive action must be forthcoming if the traditional segregation of races is to be maintained.

It will serve no purpose to argue that the Court's decision, affecting a social condition that has been in the process of stratifying itself for nearly 100 years, was handed down in three days when matters involving far less normally require weeks or months for a decision. Ample evidence already was available for anticipating the decision, and time was to be had for remedying the situation. Now, time has run out in Oklahoma and it is limited in other States.

# L'Affaire Sipuel

On the surface, it seemed a total victory for the petitioner. The United States Supreme Court had ruled unanimously Jan. 12 that for Ada Lois Sipuel, 23-year-old Negro girl who was turned down by the University of Oklahoma law school solely because of her race, the state must immediately afford legal training (NEWSWEEK, Jan. 19). As Oklahoma had no Negro law school, it seemed she must go to the white university, even though Oklahoma state law provides for separate white and Negro education.

But the highest court had left a gaping loophole in the decision: The state must give her educational facilities "as soon as it does for applicants of any other group." That meant that when enrollment for the law school's next term began Jan. 26, Miss Sipuel must either be admitted—or a separate Negro school must be ready. State regents recommended that a law school be set up in Oklahoma City as part of the Langston University for Negroes. But under advice from her representative, the National Association for the Advancement of Colored People, Miss Sipuel indicated she was not interested in attending a one-woman law school.

On Jan. 22, Oklahoma District Judge Justin Hinshaw made a decision at Norman, Okla., attempting to hold to both the Supreme Court mandate and state law. He ruled that the white University of Oklahoma could lawfully deny Miss Sipuel's admission if the state could have a segregated school ready by Jan. 26. However, he offered two alternatives if the school could not be readied. Either Miss Sipuel must be admitted to the white university, or no other—i.e. white—students could enter.

On Jan. 24, the Oklahoma state regents board announced that it had set up a separate law school for Miss Sipuel in Oklahoma City. She was to study on the fourth floor of the State Capitol building in three small rooms. Three white Oklahoma City attorneys were named to teach her.

Miss Sipuel said no thank you. "Such a

### Sequel to Sipuel

Even with the help of the U.S. Supreme Court, Ada Lois Sipuel, who is a Negro, couldn't get into the University of Oklahoma law school. The Court, which made up its mind in an almost unprecedented hurry, had told the State of Oklahoma to give Ada an education equal to what whites get (TIME, Jan. 19). And at least one of the five state judges made it plain that a law school for just one pupil is no legal education at all. But this week the Oklahoma state regents established a school of law at Oklahoma City (as part of Langston University for Negroes), to be open by next Monday. Whether this step would satisfy the U.S. Supreme Court to order that she be admitted to the University of Oklahoma "forthwith."

Meanwhile, the Southern Governors Conference was avidly watching the outcome of the Sipuel case. They planned to meet within six weeks to discuss setting up regional Negro colleges and universities in which many states could share the expense. Guinea-pig Oklahoma might clarify and hasten their plan.

All the Southern states feared Oklahoma's hopes & fears. At a conference of Southern governors, Florida's Governor Millard Caldwell put forward a plan that had long been plumping for. Since few states could afford to build separate professional schools for Negroes, why didn't five states get together and take over existing campus, turn it into a great university* to serve all their Negroes?

In South Carolina, the Charleston *News & Courier* had a more radical idea: "Were the Court to decree that Negroes be admitted into state-supported colleges for whites, the students in South Carolina, this paper would urge that all appropriations for the [State universities] cease. The white people would have plenty of money to support private colleges for themselves."

# Supreme Court a

Journal Guide

THE decision of the United States Supreme Court on Monday in the two-year-old case of the University of Oklahoma law school is highly significant in that it makes mandatory an order in this case that equal legal training must be provided for the complainant-petitioner in three days. In previous decisions in similar cases the court's action was limited largely to an interpretation of the legal angles involved. Such was the ruling in the celebrated GAINES case of Missouri.

Miss ADA LOIS SIPUEL applied for admission to the law school at the University of Oklahoma on January 14, 1946. She intended to enter the school for the semester beginning January 15, 1946. There was no question about her qualifications, academic or otherwise, except for the fact that she is colored. It was plainly evident that she was refused admittance solely on account of her race.

The state of Oklahoma has no provisions for legal training for colored students within the state, but operates an out-of-state scholarship plan similar to that provided by other southern states with a segregated school system for the two races. The state law requires that the races must be segregated in the public schools. During the two years that Miss SIPUEL's case has been in litigation the state of Oklahoma has done nothing to improve its facilities for the professional training of colored students even though the state legislature has held a session in the interim.

---

In decisions involving unequal educational facilites for colored students, courts have previously pronounced in mandatory statements that the state or other political sub-division would either have to provide equal facilities for colored students or admit them to the state-supported white schools.

In Miss SIPUEL's case the District Court of Cleveland county, Oklahoma, where she started legal action, denied her a writ of mandamus to compel her admission to the University of Oklahoma law school. When the case was carried to the Oklahoma Supreme Court that tribunal affirmed the decision of the lower court. It ruled that Miss SIPUEL's admission to the school would be in violation of the constitution of Oklahoma.

The view of the U. S. Supreme Court relative to the questions and problems encountered by colored students seeking professional training in the South can best be gained by reading the account of the proceedings before the court. During the argument Justice WILLIAM O. DOUGLAS observed that had Miss SIPUEL applied to the board of regents and then waited until a law schol was established for colored students, "she might be an old lady . . . "

When First Assistant State's Attorney General FRED HANSEN of Oklahoma, argued that Miss SIPUEL's attorneys had made no attempt to apply to the "proper" agency to get separate facilities established during the two years the case has been in court, Justice HUGO L. BLACK countered with, "I suppose the state board has known it all that time, too. Have they done anything about it?"

Justice JACKSON also wanted to know what Oklahoma had done about the problems raised in the litigation. Attorney MAURICE H. MERRILL, Mr. HANSEN's associate in the case, told the tribunal he thought Miss SIPUEL was unwilling to recognize the policy of segregation in the southern states. To this Justice JACKSON asked, "Why should she be required to abide by anything more than a white person? Why should she be called upon to waive her constitutional rights?"

---

The separate but equal facilities implied in the constitutions of the southern states also raised the ire of the court during the argument. Supreme Court justices said the "separate but equal" arrangement implies that you have something to compare. In Miss SIPUEL's case, they declared that there was no basis for comparison because there is no law school at Langston University, the colored state-supported institution, or anywhere else in the state for colored students.

It is significant, however, that no reference was made to the real issue of segregation in education. The court refrained from passing an opinion on this legal angle which is fundamentally the question at issue. THURGOOD MARSHALL and other NAACP attorneys as well as other right-thinking Americans, regard the "separate but equal" clause on education in the South as nothing more than legal fiction. Hence, Mr. MARSHALL asked the court for a clarification of the 1939 Supreme Court decision in the GAINES case.

As long as the "separate but equal" interpretation is allowed to stand, southern states will find some subterfuge for failure to equalize educational facilities for the races in the South. The dual educational system is costly under any arrangement. Equal facilities will make it prohibitive.

Negroes are entitled not only to receive in state institutions any sort of educational training that whites can get in such schools, but also to get it as quickly as any other group.

Strict application of the order would give the State of Oklahoma just three days to admit a Negro girl, (Ada Lois Sipuel) to the law school at the all-white University of Oklahoma, or set up separate and equal facilities for her.

A new semester in which white students can enter begins Jan. 15. There is no Oklahoma state law school for Negroes now. The applicant already has been waiting two years while the case was in litigation.

At Oklahoma City, Dr. M. A. Nash, chancellor of the State Board of Regents, said "Oklahoma will of course abide by the court's ruling." He added:

"The regents believe Oklahoma's problem now is one to be settled by the citizens through their Legislature.

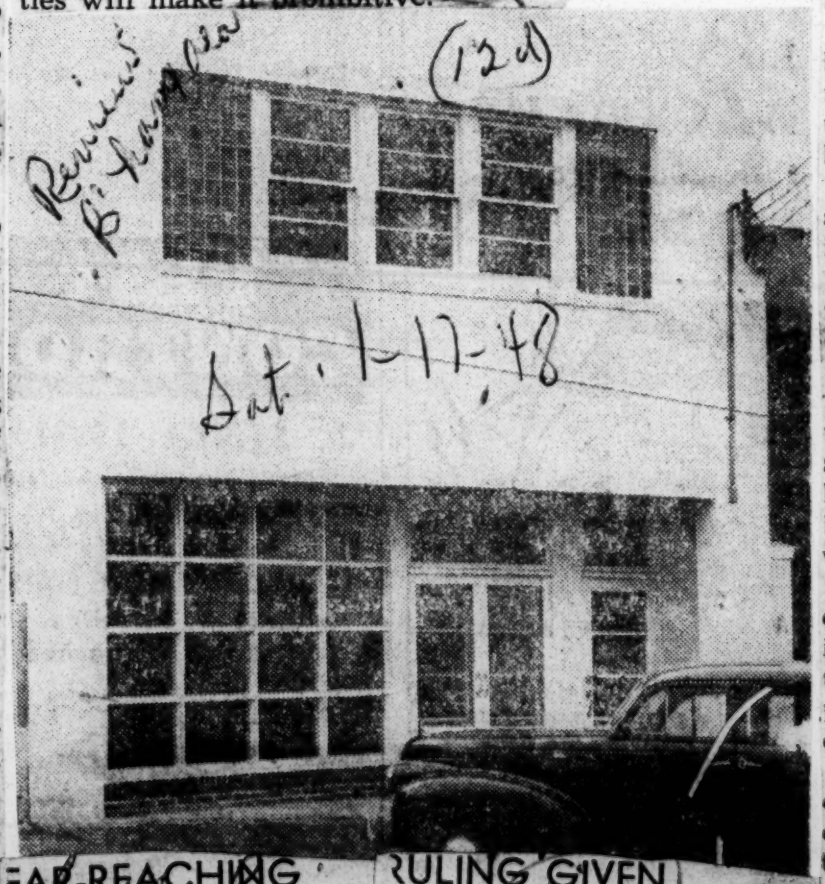
Nash noted it would take millions of dollars to provide separate facilities in all specialized or graduate study courses and it might be too costly all at once.

The Supreme Court did not specify how Oklahoma should meet its new requirements.

Justice Frankfurter asked counsel for the state if, in case of an order for immediate provision of a law course, the regents could admit the girl either regularly or temporarily to the university law school, set up separate classes for her there, or immediately organize a law school for Negroes elsewhere in the state.

The Oklahoma lawyers responded that despite state laws requiring racial segregation in education, they believed the regents had power to take any one of those courses.

The court found itself in another of the 5-4 opinion splits which often occur in civil rights cases, in throwing out the conviction of a young Canton, Ohio, Negro sentenced to a life term for murder. Justice Douglas, in the majority opinion, held that a confession was



FAR-REACHING RULING GIVEN ON SEGREGATION

WASHINGTON, Jan. 12—The Supreme Court held today that

relax with their bundles, one was the Dean's Drug Store on the corner of Monroe and Lawrence Streets and the other was the Home Demonstration Office at 107 Lawrence Street. This building is complete with sanitary drinking fountains, lockers for storing bundles after shopping and a lounge with snack bars so individuals can rest while waiting on the time. Also there is a sanitary sandwich shop and coffee counter where lunches can be served daily. By all means make this your headquarters from now on.

Lot 1-17-46

12d 1948

Oklahoma (Sipuel Case)

~~NAACP TO CONTINUE~~

FOR RELEASE - 2/20/48 FIGHTING SIPUEL CASE

New York, N. Y., Feb. 19---On February 16, the United States Supreme Court denied a motion of NAACP attorneys for leave to file a petition for mandamus in behalf of Ada Lois Sipuel, attempting to obtain her immediate admission to the University of Oklahoma Law School.

The NAACP claimed that, by setting up a separate Negro law school, the University of Oklahoma did not comply with the Supreme Court's mandate of January 12, which ordered the university to provide a legal education for Miss Sipuel "as soon as it does for applicants of any other group." The Supreme Court, however, held that the District Court of Cleveland County, Oklahoma, in declaring that the university could comply with the Supreme Court's ruling by setting up a separate Negro law school, did not depart from the mandate because the question of the legality of separate law schools was not yet before the Supreme Court. The decision also pointed out that:

"The Oklahoma District Court has retained jurisdiction to hear and determine any question arising under its order. Whether or not the order is followed or disobeyed should be determined by it in the first instance. The manner in which, or the method by which, Oklahoma may have satisfied, or could satisfy the requirements of the mandate of this Court...is not before us."

Mr. Justice Murphy did not agree with the majority of the Court and stated that, in his opinion, a hearing should be held in order to determine the question as to whether or not the Oklahoma courts had failed to follow the mandate of the United States Supreme Court. Mr. Justice Rutledge, in his dissenting opinion, agreed with the contention of NAACP attorneys representing Miss Sipuel that "obviously no separate law school could be established elsewhere overnight capable of giving petitioner a legal education equal to that afforded by the state's long established and well-known state university law school."

In commenting on the Supreme Court's recent decision, Thurgood Marshall, special counsel of the NAACP, who argued the original case before the Supreme Court along with Amos T. Hall of Oklahoma, stated: "One thing is clear from all of the proceedings taken in this case so far; namely, that Miss Sipuel still does not have an opportunity within her state to obtain a legal education equal to that afforded white students, solely because she is a Negro. Needless to say, the NAACP will continue fighting this case until Miss Sipuel is granted such an opportunity by the state."

SIPUEL VICTORY BRINGS
EDUCATIONAL EQUALITY
STEP NEARER, SAYS NAACP

New York--Hailing the U.S. Supreme Court's order to Oklahoma to provide Miss Ada Lois Sipuel with a legal education in a state-supported school "as soon as it does for the applicants of any other group," Edward Dudley, NAACP assistant special counsel, said the opinion of January 12 brings educational equality a step nearer. "It is one step beyond the Gaines decision of 1938," said Dudley, "in that the court ordered that its mandate issue forthwith, and not some time in the future."

The Sipuel case was argued before the highest court January 7 by Amos T. Hall of Tulsa, Okla., and Thurgood Marshall of New York. The victory was the 23rd won by NAACP lawyers in the Supreme Court since 1915. One case was lost and one the court refused to review, making a total of 25 cases up to the tribunal.

EQUAL RIGHTS IN EDUCATION

In its forthright order to the State of Oklahoma to provide legal education for a young Negro woman the Supreme Court reaffirmed its eight-year-old decision that educational privileges cannot be denied any qualified applicant for artificial grounds of race or color. So far, so good. But not far enough. The Court again pledged the issue as to whether state laws are constitutional, whether establishment by Oklahoma of a "separate" law school with only one student, as Justices Murphy and Rutledge pointed out, is a compliance with the Court's mandate that Miss Sipuel be granted equality in faculty and facilities to that provided for white students, meets the test of constitutionality under the Fourteenth Amendment.

One of the privileges of equal citizenship would seem to be entry, if the State provided for white students, meets the test of constitutionality under the Fourteenth Amendment. Frankfurter and Jackson indicated clearly in their questioning when the case was being argued, hardly would meaning to make segregation practices a school comparable to that at in education anything except unconstitutional. University. Classroom discussion long students and teachers is a part of the educational process.

If the United States is to stand before the world as an exemplar of equality of rights, if it is to urge with integrity the acceptance by the rest of world of the tenets and practices a democratic society, then it would well if we set our own record straight. It seems to us that the

# High Court Refuses to Order Entry at Once Of Negro Woman to Oklahoma Law School

The Times New York N.Y.
Sun.

122

Special to THE NEW YORK TIMES.

WASHINGTON, Feb. 16 — The Supreme Court declined today to order the immediate admittance of Mrs. Ada Lois Sipuel Fisher, a Negro, to the University of Oklahoma Law School. In an unsigned opinion, the tribunal denied Mrs. Fisher's argument that Oklahoma courts had disobeyed the Supreme Court ruling, issued on Jan. 12, that she must have an equal education "as soon as applicants of any other group."

Mrs. Fisher sought a mandamus compelling her instant admittance to the law school. She held that creation of a law school for Negroes did not meet the Supreme Court command.

The high court ruled, however, that the state district court "did not depart from our mandate" and that Mrs. Fisher's original plea "did not present the issue whether a state might not satisfy the equal protection clause by establishing a separate law school for Negroes."

Justice Wiley Rutledge dissented, saying that Mrs. Fisher should be admitted at once. Justice Frank Murphy favored a hearing to determine whether the Oklahoma courts had evaded the Jan. 12 ruling.

New York N.Y.
The Supreme Court held that the matter was still in the Oklahoma courts, which must rule before the high court could take further steps.
The Times

Mrs. Fisher requested the mandamus on Jan. 26, three days before the university law school was to open. Her lawyers said that establishment of the Negro law school was an evasion since no adequate law school could be set up in a week. They denounced the Oklahoma courts for carrying out the mandate "within the policy of segregation when only one facility exists and time is of the essence."

The Supreme Court said, however, that it was "clear" that the issue of a seperate school was not before it.

"The Oklahoma Supreme Court," the opinion added, "upheld the refusal to admit (Mrs. Fisher) on the ground that she had failed to demand establishment of a separate school and admission to it. On remand, the district court correctly understood our decision to hold that the equal protection clause permits no such defense.

"Nothing which may have transpired since the orders of the Oklahoma courts were issued is in the record before us, nor could we consider it on this petition for writ of mandamus if it were.
Sun.

"The Oklahoma District Court has retained jurisdiction to hear and determine any question arising under its orders. Whether or not the order is followed or disobeyed should be determined by it in the first instance. The manner in which, or the method by which, Oklahoma could have satisfied, or could satisfy the requirements of the mandate of this court, as applied by the District Court of Cleveland County (Oklahoma) in its order of Jan. 22, 1948, is not before us."

In his dissent, Justice Rutledge said the equality in education required by the Jan. 12 ruling was "equality in fact, not in legal fiction." He added that "obviously no separate law school could be established elsewhere overnight," capable of giving Mrs. Fisher a legal education equal to that afforded by the "long-established and well-known" State University Law School.
2-17-48

# In The Nation's Capital

Daily World Atlanta, Ga
Sun. 1—
By LOUIS LAUTIER

## Narrowing

122

THE SWIFT DECISION of the United States Supreme Court in the case of Mrs. Ada Lois Fisher narrows the practice of seventeen Southern States in denying colored students equal educational opportunity.

This decision means that a State, which maintains a dual school system, must afford a colored applicant training that is offered in the white state-supported institution but not in teh corresponding colored institution as quickly as it does for a white applicant.
Daily World

In that respect it modifies the decision in the celebrated Lloyd Gaines case. The Supreme Court ruled in that case that the State of Missouri was bound to furnish Gaines within its borders facilities for legal education substantially equal to those which the State there afforded white persons, whether or not other colored persons sought the same opportunity.
Atlanta, Ga.

Gaines brought his suit in April, 1936, for mandamus to compel his admission to the University of Missouri in September, 1936. The case was not decided by the Supreme Court until December 12, 1938. Meanwhile, Gaines had disappeared. Whether he left St. Louis of his own volition, leaving no trace of himself, or met with foul play is not known to this day.

**MAKE SHIFT SCHOOL**

The State of Missouri, however resolved the issue by opening up a make shift law school for colored students as a part of Lincoln University.
Sun. 1-18-48

Mrs. Fisher applied for admission to the University of Oklahoma School of Law January 14, 1946. Her application was rejected the next day solely for the reason that she is colored. White students who applied for admission to the same time were admitted for the semester beginning January 15, 1946.

After she had applied to the District Court of Cleveland County, Oklahoma, for a writ of mandamus, the State Board of Regents of Higher Education met and considered the question raised by rejection of her application for admission to the University of Oklahoma, but it took no action on the ground that it had no unallocated funds under its control with which it could open up a law school for colored persons.

Since then the Oklahoma legislature has met but it also took no action.
Daily World

Attorneys for the State of Oklahoma contended that Mrs. Fisher should have applied to the State Board of Regents of Higher Education for Legal training The board would then consider whether there was a showing that there would be patronage for a separate law school and, if so, it would ask the legislature for money with which to set up such a school or establish a course in law at Langston University.

**EXCEPTIONS**
Atlanta, Ga.

Of course, no such procedure is outlined for white applicants for legal training. They simply apply to the registrar of the University of Oklahoma and if they meet the scholastic and moral requirements they are admitted.

In arguing the case, Thurgood Marshall, special counsel for the National Association for the Advancement of Colored People struck at the time lag which may operate to defeat a colored person's ambition for legal training in Southern States. He also lashed out at the difference in treatment accorded white and colored applicants for legal training in Oklahoma.
Daily World

But what is more significant and forecasts future litigaton involving equal educational opportunity was his argument concerning the doctrine of separate but equal facilities. It was his contention that a mere building, a small faculty and books do not mean equal educational opportunity; that prestige, tradition and other intangibles must be considered.
2-18-48

Under the impact of this decision it becomes apparent that there are only two courses open to Southern States: They may abandon their graduate and professional schools and thereby disadvantage their white citizens or they may abolish separate schools and thereby improve the educational opportunities of both their white and colored citizens.

## Ada's Day in Court

Time
Mon. 1-19-48

In a front row of the U.S. Supreme Court last week sat Ada Lois Sipuel, a shy and slender Negro girl, watching the justices. One by one they leaned forward to ask questions; and usually their questions were phrased to badger the attorneys for the State of Oklahoma. They were all talking about Ada.
Chicago, Ill.

Ada, who is 23 and the daughter of an Oklahoma clergyman, had applied for admission to the University of Oklahoma law school two years ago. University officials conceded that her application was in order, but refused it—even though there is no other law school in the state for Negroes to go to. Ada Sipuel brought suit.

Now, in the U.S. Supreme Court, she was represented by the National Association for the Advancement of Colored People and its attorney, Thurgood Marshall. He had a powerful precedent. Nine years ago, in Gaines *v.* Missouri, the Supreme Court ruled that Missouri must let Lloyd Gaines study law at the state university, or set up an equal law school for Negroes.*

Francis Miller—LIFE

ADA SIPUEL

*She went home.*

* Gaines, who was 28 by the time his case was settled, changed his mind about going to law school. "Haven't heard of him since," says Marshall.
Mon. 1-19-48

## Courts and 'Covenants'

*The said property is hereby restricted for the period of fifty years so that it shall be a condition precedent to the sale of said property that no part of same shall be occupied by a person not of the Caucasian race, it being intended to restrict the use of said property against occupancy by persons of the Negro or Mongolian race.*

The above is a typical "restrictive covenant" in real estate sale contracts—under which property owners in a given neighborhood bind themselves not to sell or rent to "undersirables." Such covenants cover wide areas of many cities—for example an estimated 80 per cent of Chicago.

Last week the Supreme Court of the United States ruled that restrictive covenants cannot be enforced. The court held that the covenants in themselves were not illegal but that Federal and State courts could not be used to enforce them. This meant that property owners might voluntarily exclude "undesirable" but that they would have no legal recourse against one of their number who broke the covenant. The decision was handed down on three cases—originating in St. Louis, Detroit and the District of Columbia—all involving Negroes who had bought property in "Caucasian" areas and who had been ordered to vacate by lower courts.

The Supreme Court decision was unanimous, 6—0. Three justices—Robert H. Jackson, Wiley B. Rutledge and Stanley F. Reed—had disqualified themselves from the cases. It was learned that Justice Jackson, who lives in McLean, Va., and Justice Rutledge, who lives in Washington, own covenanted property.

## Lawyer Quits High Court As Protest

By Associated Press

WASHINGTON

William L. Hillyer, 80-year-old Washington lawyer, quit the Supreme Court bar yesterday in protest against what he called a growing tendency for the court to write its own law.

He told a reporter he believed he was the only person ever to resign the right to practice before the high court. Veteran officials of the court said they could find no record of another such case.

Hollyer said his resignation was actually brought on by recent decisions of the court in cases involving real estate covenants [barring their enforcement] and control over oil-rich submerged lands off the coasts (establishing the Federal Government's "paramount rights"). But he said he had noticed for 10 years "an increasing tendency of the highest courts to judge their cases by judicial legislation."

He emphasized that no feeling on the racial question was involved in his objection to the real estate covenants decision. He said his criticism was against a reversal of what he said had been the law of the land for many years.

## Can't Earn Enough

Dear Editor:

All people who believe in true democracy will realize the significance of the Supreme Court decision regarding restrictive covenants.

It is satisfying to know the Negro can now "scan the suburban 'Homes for Sale'"—but a bit incongruous since he is not afforded opportunity to earn enough money to live in a home of his choice. Social democracy and economic democracy are related and one can be of no use without the other.

New York NATALIE HOROWITZ

## Some Reflections Upon A Supreme Court Decision

### Segregated Neighborhoods

By a 6-0 decision the Supreme Court has ruled that American courts cannot restrict the transfer of property on the basis of race or color. But it also held there is no violation of the constitution if such agreements are purely voluntary and are abided by in voluntary fashion. In effect, the decision means that courts will not hereafter uphold segregation as applied to property.

Let's be specific. If a white man owns property in an area "restricted" to whites and decides to sell it to a colored man, his neighbors cannot prevent him from so doing by court action. If, however, he enters into a voluntary agreement not to sell to a Negro, he does not violate the 14th amendment in so doing. Restrictive clauses may still be written into deeds and may be adhered to by voluntary action or by force of public opinion within the area.

**Some months ago a Federal Court decree held a local zoning ordinance based solely on racial grounds unconstitutional and therefore null and void. Thus in Birmingham there is now no legal way by which a Negro can be prevented from purchasing and owning property anywhere inside the city.**

It is not expected, however, that the problem will ever become acute in Birmingham. Rarely, if ever, does a Negro desire to build a home in a Birmingham section regarded as peculiarly reserved for white residents only. The force of public opinion would be so against such action that no Negro could be happy under those circumstances. None is ever likely to force his way into a white neighborhood. What many Negroes do ask, however, is the right to expand some of the areas now used for Negro residences so that homes can be erected under decent circumstances and the pressures of tenement life can be lessened. Thus there is added impetus to pride and civic responsibility. When human dignity is upheld there is always an increase in respectable living and a corresponding decrease in delinquency and the cost of retaining decency and peace.

The problem posed by the Supreme Court will upset the equanimity of Northern industrial cities much more than it will disturb the pattern of life in the South. The three cases which had come before the court for settlement originated in St. Louis, Detroit and Washington. In those cities and many others, such as Chicago, New York, Cleveland and Boston, there has long been friction. The greatly increasing population of Negroes in such places has resulted in overcrowding, insanitary living conditions and more crime and poverty. As Negro sections have constantly encroached upon white neighborhoods, white home owners have frequently sold out to Negroes and moved away, leaving spotty sections where colored and white have had to live side by side, with resultant friction. Attempts have been made to preserve the white identity of neighborhoods by the writing of restrictive agreements into sales clauses. Such can no longer be enforced in the courts. The practical result of the decision in Northern cities may be almost a wholesale evacuation of certain districts by white residents.

There is one other point to consider. In certain sections of some American cities there have been also restrictive agreements against the sale of property to certain other racial stocks, such as Jews. The decision apparently applies equally to attempts to keep Jewish families out of some areas.

## Some Reflections Upon A Supreme Court Decision

The supreme court in outlawing the enforcement of restrictive real estate covenants—cases from two other states were decided Monday—nevertheless held that such covenants are legal.

In these are entered voluntarily there is nothing that the court can or would do about them. It is only when one party asks the courts to use the power of the state to enforce them that state action becomes involved, the court holds, and state action may not be used for the purpose of enforcing segregation in the sale or occupancy of property.

But what if a case should be brought before the court in which the plantiff asked not that a restrictive covenant be enforced, but sought damages for the failure of the other party to abide by the covenant? After all this is one of the remedies for a broken contract and it isn't identical with a prayer for specific performance, involved in the actions so far decided. Would such a case for damages as a result of a broken covenant present a different question to the court? Or would its construction of the Fourteenth amendment require it to outlaw claims for damages under a restrictive covenant also?

And if this were so—and nobody can guess from one opinion of the court what its decision will be in another case—wouldn't the court be denying in the name of equal protection of the laws the equal protection of the laws to the makers of perfectly legal contracts?

# Time to Take Heart Again

Yesterday's 6 to 0 decision of the Supreme Court barring the enforcement of restrictive covenants is adrenalin for the bloodstream of the tired and discouraged liberal. The opinion written by Chief Justice Vinson was a magnificent affirmation of the true strength of democracy, of the glory of this country's equalitarian tradition. This was an historic decision, for more reasons than one.

In itself, the decision promises the eventual abolition of the enforced ghettoes of America, an end to the endless pyramiding of minority groups in constricted slums. That will not happen overnight. The decision does not bar individual owners from agreeing not to sell their property to Negroes or Jews or Mexicans or Japanese or Indians; but it makes such agreements unenforceable in the courts. Economic forces will now slowly expand the perimeter of the ghettoes. The process will continue until ultimately any man's right to live anywhere he can afford to, no matter what his religion or skin color or racial antecedents, will be accepted as a matter of course.

An estimated 40 million homes and apartments in all parts of the country are covered by these now-outlawed covenants. In the New York area 85.1 per cent of the big new subdivisions recently developed in Westchester, Nassau and Queens are covenanted. Studies show that about 90 per cent of the new housing in the country as a whole is covenanted. In its simplest terms, this decision will mean that the Negro GI in Harlem, for example, can now of a Sunday morning scan the suburban "Homes for Sale" section of the want ads, bid on what he likes and can pay for, and buy if the seller is willing. That is not the end of the struggle against segregation, but it is a seven-league step ahead.

But there is more than that in the decision. The principal opinion was written by Chief Justice Vinson—born and bred in Kentucky. Six lawyers argued the several cases before the high court. Four of them were Negroes. This is democracy, *alive.*

And there were 20 organizations which filed briefs as friends of the court—more than in any case within the memory of Supreme Court attaches. The National Association for the Advancement of Colored People carried a big share of the fight; but the National Lawyers Guild joined brilliantly in preparation, the Rosenwald Foundation provided invaluable economic data and interpretation, the CIO joined in and the AFL, the American Indian Citizens League was represented, the Japanese American Citizens League, the American Jewish Congress and Committee, the Unitarian Church, the American Veterans Committee, the American Civil Liberties Union, a host of others. Here was a case of "minority groups" joining their forces until they came to represent a majority of the people. There is a lesson in that, for all liberals fighting all causes.

The only regrettable thing about this decision is that it could not have been handed down on Abraham Lincoln's birthday.

## Capital Aims

By William Taylor

The Supreme Court's recent decision on restrictive covenants knocks out the legal props under the feet of the Negro haters and the architects of the ghettos. Now the breeders of Jimcrowism and creators of slums can't run to the courts to uphold their undemocratic housing restrictions.

The Negro people and all other believers in democracy should not feel that the battle to erase restrictive covenants from the books is over. The Supreme Court didn't declare the covenants illegal. They declared them valid if the covenants were applied as part of a "voluntary agreement" between the buyer and seller of real estate.

Thus, the fight to get rid of this vicious form of "Gentleman's Agreement" now becomes clearer. The point is: will real estate owners try to enforce what the Supreme Court says state and federal courts can't enforce?

**The high court ruling not only exposed the whole rotten system of segregation in Detroit neighborhoods but is understood the living and housing conditions in the slums where Negro people have been forced to live.**

Perhaps the six justices who unanimously came to the same decision were helped by the sight of the new Congressional Hotel, constructed a few blocks from the court. Perhaps they paused and thought about the great amount of building material poured into this modern air-conditioned hotel. This building material could well have gone into new homes for the slum-dwellers in the area on Capitol Hill.

When the hotel opened up and announced its prices the other day, it didn't take any Supreme Court judge to figure out why hotels have been going up and why slums have not been coming down. Room rents in that hotel go up as high as $40 a day. No one can make that much tearing down slums and building new livable homes.

If the Supreme Court justices were moved by this striking contrast in the housing care provided residents of the District, they showed greater sentivity to the housing problem than the members of Congress who stare at the slums around them all day long and still do nothing to get rid of them.

*To Charles Hamilton Houston, former member of the President's Fair Employment Practice Committee, vice president of the American Council on Race Relations, vice dean of law at Howard University in Washington who has won a notable victory with the Supreme Court 6-0 decision outlawing legal enforcement of restrictive covenants. He spearheaded the long legal fight which led to yesterday's court verdict.* (See Story on Page 3.)

# HIGH COURT SPLIT IS INDICATED ANEW

## Conflict Blamed for Delay on Cases—Jackson 'Does Not Understand' All Opinions

Special to THE NEW YORK TIMES.

WASHINGTON, April 19—Renewed indications of delaying dissension in the Supreme Court were seen today.

After a two-week recess, the court announced decision on only two minor cases out of about forty on its list; and again left unsettled five or six major issues argued a considerable time ago.

Paramount among the postponed cases was the question whether real estate property owners could legally draw covenants to bar purchase by Negroes or other racial groups. This was argued Jan. 15.

Others in the deferred category were: a Government anti-trust suit against the so-called "cement trust," argued Oct. 20; anti-trust cases affecting the motion picture industry, argued in December and February, and three controversies involving interstate divorces, argued in October and February.

The importance and details of these cases would necessarily entail time to deal with. However there was a strong feeling that the conflicting views of the justices made the matters even more difficult to decide.

While the outward expressions had not been as biting and sarcastic as in other terms, the old cleavage between the "conservative" and "liberal" factions continued undimmed in its intensity.

Both of the two opinions announced today resulted in five-to-four splits, the closest division possible in the tribunal. While in one, the four "liberals" dissented, in the other the four were mixed in their legal convictions.

In the latter case, the objection was written by Mr. Jackson, who sharply said he did "not always understand the opinions of this court."

Through Justice Wiley Rutledge, the five-majority had given full priority to Federal tax claims over Massachusetts claims against a company for unemployment compensation fund payments.

In the other case, five justices upheld the conviction of a 57-year-old man who had taken indecent liberties with two small girls. Convicted in Illinois in 1938, he appealed eight years later while serving time in prison. He asserted that he had not had the right of counsel.

# JUSTICES STEP OUT OF COVENANTS CASE

12 D Restrictive
Fri 1-16-48

## Rutledge, Reed, Jackson Give No Reason for Disqualification on Racial Property Pacts

WASHINGTON, Jan. 15 (AP)—Three Supreme Court justices disqualified themselves today from participating in hearings of the racial "covenants" case.

The Government, through Solicitor General Philip B. Perlman, told the court that such restrictive agreements on residential property "should be relegated to the limbo of other things as dead as slavery."

Justices Wiley Rutledge, Stanley F. Reed and Robert H. Jackson disqualified themselves as Mr. Perlman opened two days of arguments on appeals filed in behalf of Negroes who bought houses in Detroit, St. Louis and Washington, D. C., but were prevented from living in them. The Times

The case hinges on the right, upheld by state and Federal courts, of property owners to prevent the sale of houses to members of racial groups through agreements or "covenants" forbidding such sales.

Withdrawal of the three justices left six to hear the case—Chief Justice Fred M. Vinson and Justices Frank Murphy, Felix Frankfurter, Hugo L. Black, William O. Douglas and Harold H. Burton.

**Tie Decision Possible in Case**

With this a bare legal quorum on the bench, there arose the possibility of an evenly divided court. By historic precedent, tie decisions uphold the rulings of lower courts.

Justices Rutledge, Reed and Jackson gave no reason for leaving the bench. Each judge makes his own decision as to whether he should take part in a case and in recent years they have not made known their reasons. Fri. 1-16-48

Court observers said any one of several things might have prompted the action. For example, one or more of the three justices might own or live in, or have owned or lived in, a house covered by a restrictive agreement.

Justice Jackson is a former attorney general; Justice Reed a former solicitor general. In those capacities, conceivably, the question of such agreements might have come before them. Justice Rutledge is a former law teacher. The Times

Any of the three, as lawyers in private practice, might have taken part in litigation involving restrictive agreements. The Times

The opening of arguments attracted a capacity crowd of spectators and lawyers. About one-third were Negroes. New York, N.Y.

**St. Louis Appeal Is Taken Up**

Gerald L. Seegers, attorney for Louis W. and Ferne Kraemer, respondents in the St. Louis appeal, argued that restrictive agreements are not contrary to public policy and do not violate the civil rights statutes enacted under the Fourteenth Amendment and violate no valid laws of Missouri or of the United States. Fri. 1-16-48

George L. Vaughn, who told the court he was a grandson of a slave, and Herman Willer represented J. D. Shelley and his wife, Negroes, who were prevented from taking possession of a home they bought in St. Louis. Like Mr. Perlman, they called restrictive covenants illegal. 1-16-48

The Solicitor General said that under racial restrictive covenants "the Negro and other racial groups are denied the fundamental and necessary right to buy homes; and denied complete equality before the law in this and other respects."

"The fact that racial restrictive covenants have been enforced by courts of law," Mr. Perlman said, "has become a source of serious embarrasment to agencies of the Federal Government in the performance of many essential functions, particularly those relating to housing and home finance, to public health, to the protection of dependent native minorities in the United States and its territories, and to the conduct of foreign affairs." The Times 1948

# Supreme Court Judges Bar Selves From Covenant Case

Montgomery, Ala. Advertiser

WASHINGTON, Jan. 15.—(AP)—Three Supreme Court justices disqualified themselves Thursday from participating in hearings of the widely-publicized racial "covenants" case. Fri.

The government, through Solicitor-General Philip B. Perlman told the court that such restrictive agreements on residental property "should be relegated to the limbo of other things as dead as slavery." 1-16-48

Justices Rutledge, Reed and Jackson disqualified themselves as Perlman opened two days of arguments on appeals filed in behalf of Negroes who bought houses in Detroit, St. Louis and Washington, D. C., but were prevented from living in them.

The case hinges on the right, upheld by state and federal courts, or property owners to prevent the sale of houses to members of racial groups through agreements or "covenants" banning such sales.

Withdrawal of the three justices left six to hear the case—Chief Justice Vinson and Justices Murphy, Frankfurter, Black, Douglas and Burton.

With six justices on the bench—a bare legal quorum—there arose the possibility of an evenly divided court. By historic precedent, tie decisions uphold the rulings of lower courts.

Justices Rutledge, Reed and Jackson gave no reason for leaving the bench. Each judge makes his own decision as to whether he should take part in a case and in recent years they have not made known their reasons.

Court observers said anyone of several things might have prompted the action. For example, one or more of the three justices might own or live in, or have owned, or lived in, a house covered by a restrictive agreement. The Advertiser Fri.

Justic Jackson is a former attorney general; Justic Reed a former solicitor general. In those capacities, conceiveably, the question of such agreements might have come before them.

Justice Rutledge is a former law teacher. He could have discussed the question before a class. Montgomery, Ala.

Any of the three, as lawyers in private practice, might have taken part in litigation involving restrictive agreements. 1-16-48

The opening of arguments attracted a capacity crowd of spectators and lawyers. Some were waiting outside the building despite freezing cold when the doors opened at 9 a.m., three hours before the session began. About one-third were Negroes.

Gerald L. Seegers, attorney for Louis W. and Ferne Kraemer, respondents in the St. Louis appeal, argued that restrictive agreements are not contrary to public policy and do not violate the civil rights statutes enacted under the fourteenth amendment and violate no valid laws of Missouri or of the United States. The Advertiser Montgomery, Ala.

George L. Vaughn, who told the court he was a grandson of a slave, and Herman Willer represented J. D. Shelley and his wife, Negroes, who were prevented from taking possession of a home they bought in St. Louis. Like Perlman, they called restrictive covenants illegal. 1-16-48

# The Law Is for People, Too

Fri 5-22-48

Maybe today, maybe next Monday, anyhow sometime this Spring, the Supreme Court in Washington will hand down a decision which will inform a lot of New Yorkers about what are their prospects for a somewhat more decent sort of life. At least it will tell them for sure whether their money is as good as the next guy's, or whether it's a kind of second-rate money—regular U. S. currency when they get it, colored a nice green, but all of a sudden changing from green and genuine to black and counterfeit when they try to spend it for a place to live that isn't a ratty hole.

The imminent decision is on the restrictive covenant cases which were argued last January. There are four cases before the court, none of them originating in New York. But the decisions will mean plenty to New Yorkers, because the housing problem here is worse than almost anywhere else, and it's 10 times worse for Negroes than for whites; and one of the things making it so bad is the fact that practically all the new housing being built around here is *verboten* to Negroes via restrictive covenants.

A restrictive covenant, in case anyone doesn't know, is a legal agreement, signed by a group of property owners, which excludes certain groups of people from buying, using or occupying homes or land in the area covered. It gets hitched on to the title to the property and no matter how many times a piece of land is sold, it always has to be sold subject to the covenant.

Generally those excluded by the covenants are Negroes, but sometimes it's Jews, and often everybody not "Caucasian." They first started to come into general use after the first World War, and by now they are spread over great amounts of territory. A survey conducted by John P. Dean of the Social Science Research Council late last year showed that 85.1 per cent of the land in the big subdivisions opened in Queens, Nassau and Westchester Counties in the period just before and since this last war are covered by racially restrictive covenants.

That means, simply, that a Negro, no matter how much money he has, no matter how fine his education, good his manners, beautiful his wife, charming his children, can't buy a house in the only places where houses are being built, or buy a decent piece of land in a new development and build his own house. It means the Negro veteran's right to a GI loan is a mythical benefit, something he has on paper but can't get any use out of. It means that he can buy the Sunday papers and turn to the real estate section and read the lyrical ads for those dream houses complete with washing machines, copper plumbing, venetian blinds and all the rest, only $1000 down—but the Supreme Court isn't supposed to be above the world and what's going on in it. It is to be hoped that the judges, while they were weighing and balancing this nicety of the law against that technicality or the other mummified precedent, had some such vagrant thought as this flitter

through their collective brain: Times

"Look, Mr. Justice Me, what are you here for? To deal out the justice, isn't it? And didn't we just finish up a war so you could go on dealing out justice? And didn't Negroes fight? And the lucky ones become veterans, while the unlucky ones stayed behind, right alongside the whites in their graves? And doesn't it seem that there are very powerful forces pushing us toward making a lot of new veterans? And won't we ask the colored fellows to come in on it again? In fact, won't we force them to? And won't the unlucky ones stay behind? Well, then, how about the ones who come back? To what? The same dismal and degrading half-citizenship? Post Hartford, Ky.

"Why, Mr. Justice Me, if you should let that happen, just because you got all wound up in a lot of legalistic hocus-pocus, how could you go on wearing those robes? How could you sleep at night?" Mem. 5-22-48

—TOM O'CONNOR

# The Court Reaffirms A Principle of Rights

The Courier-Journal Louisville, Ky.

THE Supreme Court could hardly avoid its main conclusion in three cases of so-called "restrictive covenants." These are real estate agreements which bar the sale of property to Negroes in neighborhoods covered by such compacts. 5-5-48

Stating a general principle of rights under the Constitution, the court took its stand in cases from St. Louis and Detroit on the Fourteenth Amendment: ". . . Nor shall any State . . . deny to any person within its jurisdiction the equal protection of the laws." In a case from Washington it referred to an 1866 Act of Congress which said: "All citizens of the United States shall have the same right in every State and territory as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property." 5-5-48

These utterances seem plain and applicable enough. However, the decision and, to a certain extent, the principle itself were limited in a way the layman may find puzzling. Restrictive covenants, the court says, are not unlawful in themselves. They are defensible as long as the man who signs them abides by them voluntarily. But if he sells to a Negro, the title of the latter cannot be put aside. Apparently neither party, buyer or seller, may be penalized. In the Washington case, for example, a covenant provided a $2,000 penalty for violation, to be a lien against the property. But a lien would fall against the buyer, in this case a Negro, and to enforce it against him would be in effect to deprive him of his possessions. Louisville, Ky.

In other words, the Supreme Court said that neither Federal nor State courts may be used to enforce the agreements, once they are broken. This seems to mean that discrimination cannot be touched so long as it merely reflects personal attitudes and conduct. But it is another thing to ask the State or the nation to protect discrimination by its courts or institutions; for to do so would be to invoke the la to protect discrimination. The Courier-Journal

The main point of the decision is a restatement of the things for which the United States stands, as expressed in its laws and guarantees rather than in its customs, local and personal. Thus it is not new and certainly not revolutionary. In fact, by its very qualification it leans to the conservative side. Persons who may be opposed to segregation and discrimination are given no encouragement to attack as unconstitutional restrictive covenants which they may be asked to sign as a condition to buying a piece of property. Wed. 5-5-48

There is a chance, of course, that a person so inclined may seek to acquire restricted property with the deliberate though unannounced intention of conveying it to Negroes. But you may guess that this will occur rarely, if at all. The only noticeable result of the court's ruling is likely to be an expansion of Negro ownership in "fringe" neighborhoods, where custom has kept Negroes from finding relief from overcrowding and dilapidation. Responsible Negro leadership is not going to abet encroaching simply for the sake of encroaching. What the intolerant white person should understand is that in this leadership there are just as much self-respect and pride of race as may be found in groups of any skin color.

# Supreme Court Makes New Real-Estate Ruling

The Courier-Journal Louisville, Ky. Tues. 5-11-48

Special to The New York Times and The Courier-Journal.

Washington, May 10.—As a sequel to its ruling a week ago that courts could not enforce restrictive covenants on real estate, the Supreme Court today upset an Ohio court decision confining the use of church property to white persons.

In a formal order, citing the example of the cases decided last Monday, the tribunal reversed an Ohio Court of Appeals which had sustained an agreement designed to bar non-Caucasians from occupancy of property.

The property was bought as a parsonage in 1945 by the Monroe Avenue Church of Christ, whose congregation a County Court described as "largely made up of colored people." 5-11-48

In another order the Supreme Court sent back for further consideration by the California Supreme Court a case affecting the use of houses. The case was brought in Los Angeles by persons of Chinese and Korean ancestry. Tom D. Amer and Yin Kim protested against the enforcement of pacts preventing occupancy of property by non-Caucasians except as servants.

Last Monday's rulings held that courts could not enforce covenants written to bar persons from real-estate ownership because of race or color. The Supreme Court stood 6 to 3 on the May 3 decisions, with Justices Stanley Reed, Robert H. Jackson, and Wiley Rutledge abstaining, as they did from the two orders today. Tues. 5-11-48

# Real Estate Segregate Bans 'Out'

Tues. 5-4-48 The Constitution

WASHINGTON, May 3—(UP) The Supreme Court Monday knocked down the legal bars raised by real estate owners to keep Negroes and other minority groups out of "white" neighborhoods. Atlanta, Ga.

The Justices ruled 6 to 0 that "Jim Crow" real estate agreements cannot be enforced by any court or police power and need not be observed. If a Negro or member of any other racial minority buys or rents property covered by such a pact, he cannot be evicted.

*State Atty. Gen. Eugene Cook at Tifton said Georgia has no segregation laws affecting the transfer of property.*

*A. H. Sturgess, President of the Atlanta Real Estate Board, remarked that the Supreme Court decision "sort of speaks for itself." He had no comment at this time on the effect it would have on local transactions.*

The nationally important decision was delivered by Chief Justice Vinson in a series of test cases brought by Negro families in the District of Columbia, Detroit and St. Louis. Other cases from Columbus, Ohio, and Los Angeles are pending.

Associate Justices Robert H. Jackson, Stanley F. Reed and Wiley B. Rutledge disqualified themselves from the cases. Jackson and Rutledge at least are known to own "restricted" property. The Constitution

**COVENANTS FALL**

The decisions kicked the props from under countless "whites only" covenants between real estate owners all over the country.

Vinson said such covenants are not illegal in themselves. But under the 14th amendment to the Constitution, he ruled, the Federal and State Governments cannot enforce them. Atlanta, Ga.

The 14th amendment guarantees all citizens equal protection under the law and forbids any State to "abridge the privileges or immunities of citizens of the United States." Tues.

If the States are forbidden to take discriminatory action, Vinson said, there is no ground for permitting the Federal Government to do so. 5-4-48

The first decision lumped together two similar cases brought by Negro families who bought property in "white" neighborhoods of St. Louis and Detroit. In both instances, the State courts had ordered the Negroes evicted because of the real estate pacts.

**4 FAMILIES INVOLVED**

The second covered four Negro families in Washington who were ordered by the Federal District Court here to get out of homes they had bought in a "white" neighborhood.

All three cases were considered of such national importance that the Justice Department intervened formally when they reached the high court to ask that all discriminatory property agreements be outlawed. The Constitution

Vinson's decisions, in effect, did just that, since they killed the legal status of all such agreements.

"We have concluded that in these cases the States have acted to deny petitioners the equal protection of the laws guaranteed by the 14th amendment," the Chief Justice ruled in the St. Louis and Detroit cases. Atlanta, Ga.

**VINSON'S DECISION**

Of the District of Columbia case, he said: Tues.

"It is not consistent with the public policy of the United States to permit Federal courts in the nation's capital—to compel action denied the State courts . . ."

"We cannot presume that the public policy of the United States manifests a lesser concern for the protection of such basic rights against discriminatory action of Federal courts than against such action taken by the courts of the States." 5-4-48

# U.S. Supreme Court Decision Will Halt Housing Jim Crow

By GEORGE F. McC

WASHINGTON D. C., May 26 (ANA).— In a unanimous decision last week, the Supreme Court of the United States ruled that under the laws of the United States all American citizens, regardless of race, have equal rights to buy, sell, and use lands within the domain of the United States.

Negro lawyers, retained by Negro organizations, argued that agreements between white persons not to sell land or real property to 15 million persons of African descent are illegal and that enforcement of such so-called restrictive covenants is contrary to the letter and the spirit of the Constitution of the United States.

Thirty years previously, Negroes had obtained from the Supreme Court a ruling prohibiting the various state and municipal governments from passing laws segregating Negroes to certain reserved areas.

To evade this ruling a system of restrictive covenants was developed by white land owners.

Each agreed not to sell, nor to permit Negroes nor other non-white persons to buy or occupy certain lands or properties.

Under the system of restrictive covenants, vast sections of the United States and as much as 80 per cent of the land area of cities like New York, Chicago, St. Louis, and Detroit were restricted against Negroes.

Now such agreements will have no effect since they are no longer enforcable in court.

The action of the U. S. Supreme Court will eventually destroy over-crowding in so-called Negro neighbourhoods where, for generations, Negroes have been exploited by high land and house rents; given inferior schools, hospitals, police protection, and other municipal services.

The decision will knock one of the props from under the whole system of racial segregation all over the world.

## Kluxers and Senators Discuss Ways, Means To Save Covenants

ATLANTA — (ANP) — "Ways and means" of circumventing the supreme court's May 3 decision against enforcement of restrictive residential covenants were discussed in Washington last week by Sens. Bricker and Walter George with the Rev. Tom Harrison, who calls himself the "Railroad Evangelist," according to Harrison's report in Atlanta Klan Kloverin No 1 May 17.

One of the most militant of Atlanta's Klansmen, Rev. Harrison boasts that he is "writing a book to refute one written by Eleanor Roosevelt and Pearl Buck in which they give Negroes instructions on how to marry whites."

## RESTRICTIVE COVENANTS

Editorial of the Chicago Tribune

The Supreme Court announced on Monday that agreements not to sell or lease property to Negroes cannot be enforced in state or federal courts. Such agreements are known as restrictive covenants. The Supreme Court says that nothing in the 14th amendment forbides any one uto sign a restrictive covenant directed against Nebroes, but the amendment does forbid the courts to take any part in enforcing the contact. It is most unlikely that any alternative method of enforcement can be found.

Eighty years ago this July, the 14th amendment was declared ratified and from that moment it has been part of the fundamental law of this nation. In all the intervening time, the precise point raised in the restrictive covenants cases had never before been presented to the Supreme Court, a remarkable circumstance in view of the widespread use of the device and the fact that the amendment was one of three adopted precisely for the purpose of establishing the rights of Negroes.

The amendment is directed against the states. It says that no state shall deprive any person of life, liberty, or property without due process of law nor deny to any person wihtin its jurisdiction the equal protection of the laws. Previous decisions have interpreted these words to mean that a state legislature may not enact a law restricting the right of a Negro to buy a house that any one is willing to sell him. The same rule applies to city councils. The novel question answered on Monday is whether the amendment applies also to the courts of a state. Can the courts enforce a restrictive covenant and thus do what legislatures and city councils are forbidden to do?

The Supreme Court said that the amendment applies equally to courts. The courts are branches of the state governments. Therefore they may not order the sheriff or the police to enforce a contract which discriminates among citizens on account of race or color. We do not see how any other conclusion could have been reached without doing violence to the plain meaning of the words of the Constitution.

Some persons fear that unpleasant incidents will arise as a result of the decision. There is no reason why they should. There are hundreds of peaceful neighborhoods in Chicago and in other cities, north and south, where self-respecting whites and self-respecting Negroes live in the same block without conflict or thought of conflict. Nothing is the decision prevents neighbors from agreeing on maintaining standards of occupancy, such as limiting the number of persons per room or requiring proper care of the premises.

Such agreements are enforcable in the courts. They can preserve neighborhood values perhaps more effectively than restrictive covenants have succeeded in doing. There are plenty of neighborhoods in Chicago where property values have declined without the presence of Negroes and plenty of other neighborhoods in which Negroes own homes without having brought about any deterioration of values.

We do not believe that untoward incidents will arise as a consequence of the decision. If they do, the fault will lie with the churches, schools, and other agencies which have failed to perform their duty of enlightenment.

# Double-Talk On Jimcrow

Daily Worker 5-5-48

THE Supreme Court has heard the angry voices of America's 14,000,000 Negro citizens who still live outside the Constitution's democratic guarantees. With the November elections approaching, the Court has decided to make a gesture toward these millions who endure the horrors of the Jimcrow system. The Court has ruled (after three of its members decided that they could not judge the issue, the rumor being that they own Jimcrow property themselves), that Jimcrow "restrictive covenants" cannot be enforced by State or Federal Courts. These covenants are deals in which Negroes are forbidden to buy or rent property in certain areas or towns.

For the few cases where Negro property owners have been suing for the right to keep their property bought from white owners who broke their covenants, this opinion gives a certain legal advantage. New York, N.Y.

But that this Court decision gives the Negro tenant or property buyer any substantial gain, as is claimed by certain leaders who are only too anxious to quiet down the indignation of the Negro people, is a fallacy. Wed.

In fact, the Supreme Court's double-talk leaves a loophole a mile wide. The Court says that if a Jimcrow covenant is entered into **"voluntarily," then the Negro people have no recourse against it!** 5-5-48

While seeming to outlaw such covenants, the Court's decision really gives them a new legal lease on life, in practice.

It is all very much like the so-called civil rights promises dished out by President Truman recently, which have already become a laughing stock as far as any real challenge to Jimcrowism is concerned.

All of which goes to prove that the Negro people will win real gains only through mass organization in unity with progressive Labor, fighting for the New Party dedicated to abolishing Jimcrowism by fighting the roots of the evil—the trusts and the bi-partisan coalition which does their bidding. Wed. 5-5-48

# Restrictive Covenants And The Supreme Court

The Columbia Record Columbia, S.C.

The supreme court of the United States wrote new law in its six-to-one decision holding that the courts may not be used to enforce real estate agreements which bar Negroes from all-white neighborhoods. Satur. 5-8-48

In the civil rights cases, decided after the Confederate war, the supreme court held that the states might not, under the Fourteenth amendment, enact laws which in any way abridge the privileges and immunities of citizens of the United States or deny them equal protection of the laws.

In this new decision, Chief Justice Vinson, who wrote the opinion, held that what a state may not lawfully do through its own laws it may not do for private citizens through its courts. Satur. 5-8-48

Enforcement of the restrictive covenants by the courts is, he declared, a state act which "because of race or color" denies to Negroes the "rights of ownership or occupancy enjoyed as a matter of course by other citizens of a different race or color."

Yet after emancipation and the adoption of the Thirteenth amendment, which forbids slavery in the United States, the courts were used to enforce contracts for the payment of the purchase price for slaves, even though the constitutions of the states concerned then contained provisions directly prohibiting the payment of such debts. These constitutional provisions, it was held, were state "laws" which impaired the obligations of a contract. The Columbia Record

The real estate covenants are contracts, which will be impaired by the new decision. And the court does not outlaw them as such.

Standing alone they do not violate any rights guaranteed the Negroes or others by the constitution, the court held. Columbia, S.C.

"So long as the purposes of these agreements are effectuated by voluntary adherence to their terms," the chief justice declared, "it would appear clear that there has been no action by the state and the provisions of the amendment would not have been violated." Satur. 5-8-48

So no sudden change in the racial composition of neighborhoods is to be expected as a result of the decision. The effect of the covenants has been to solidify patterns of residential development based on social custom and choice. White neighborhoods generally have been occupied exclusively by whites and Negro neighborhoods generally by Negroes.

Hereafter these same arrangements may be maintained, but they can be maintained only by the free choice of the individuals concerned. Present contracts will remain in force so long as the parties to them voluntarily follow their provisions. What the opinion does is make neighborhood segregation a matter of social custom instead of public policy, enforceable by the courts.

**By Benjamin J. Davis**

*Member, New York City Council*

**THE DECISION of the U. S. Supreme Court on the restrictive covenant cases is a cheap, legalistic concession in form to demobilize the united and rising indignation of the Negro people without granting anything really substantial.** Daily 5-4-48

The effect of the decision is to leave virtually untouched the tuberculosiss-ridden slum ghettos in which Negro citizens are compelled to live—and die with abnormally high frequency. This situation cannot be basically and substantially changed unless and until restrictive covenants are outlawed.

**This, the court took great pains not to do. In fact, the decision leaves all restrictive covenants valid. It bars courts from enforcing them. But it leaves the lynch owners to enforce them by hook, crook or violence.**

Under the decision of the court, if a white person owning property covered by a restrictive covenant wishes to sell to a Negro, he cannot be prevented from doing so by the courts as formerly. Even this small concession was won only by the popular pressure of the Negro and his allies.

However, if an exclusive white owner of property covered by a covenant, refuses to sell to a Negro, the Negro cannot use the courts to force a sale. In that way the Negro is deprived of the equal protection of the law under the 14th Amendment. Since 90 percent of property covered by restrictive covenants is owned by such whites who flatly refuse to sell to Negroes, the practical effect of the decision in making it possible for Negroes in mass to move into lily - white neighborhoods is virtually nil. 5-7-48

**THE decision also puts a black market premium on breaking a covenant. The white owner can pick and choose which Negroes he will sell to, and then charge double and triple the price for the property — with Supreme Court sanction.**

**The masses of Negro workers who are the worst victims of restrictive covenants, and who are forced to live in slums, find themselves without the use of the courts to compel a break-through into communities covered by these fascist-like agreements.** 5-9-48 Daily

The court held that neither federal nor state courts can enforce restrictive covenants, which is, of course, important. However, it expressly gave private individuals the right to maintain restrictive covenants, which means that the state and federal governments will back up privately held restrictive covenants as long as the owners do not want to break them. All the restrictive covenant owners have to do is to stand pat. The Worker

**If you're going to lynch the citizenship rights of Negroes, the court held in effect, you have to do so privately. Here the court was advising the ruling class how to break the law. It exposed itself more damningly than the terrible Communists ever did!** New York, N.Y.

**THUS, in the name of deciding against restrictive covenants, the Supreme Court gave them their first cloak of official legality.**

**This decision will actually encourage the wider use of these pernicious agreements.** Rich snobs, white supremacists like Rankin or duPont, and millionaire landowners can now quote the Supreme Court to back up their agreements, privately entered into, to bar Negroes not only from neighborhoods, but from whole towns. **The court places Negroes seeking occupancy of property outside the ghetto, completely at the whim of individual property owners, who will use extra-legal violent methods to uphold their restrictive covenants.**

The Supreme Court decision is therefore a masterpiece of double-talk, which even Democratic and Republican aspirants for President must envy. Indeed, certain members of the court—and who knows how many—are running for President. The Worker

Even more disgraceful is the fact that Justices Jackson and Rutledge disqualified themselves from participating in the decision —because they own property covered by anti - Negro restrictive covenants! Perhaps the court did not outlaw restrictive covenants because it would have made criminals out of two of its own! But criminals they are and ought to be kicked off the bench—unless, of course, they resign.

The fact that two members of the Supreme Court bench profit from restrictive covenants shows that class of citizens these Hit-

What the basic principles of the Constitution! How can the Negro people have any reliance in such kind of equality can a court dispense when two of its own members are merely because a group of reactionary politicians have

## U. S. Supreme Court Covenant Ruling Stirs British Empire

By A. J. Siggins

LONDON — (ANP) — The recent U. S. Supreme Court ruling outlawing racial restrictive covenants is causing many repercussions in the British empire, especially here in Great Britain, in the Union of South Africa and Australia.

This decision spotlights South Africa, Britain and Australia as the only countries in the world in which the color bar is a legal principal enforced by state action. It may have far-reaching effects upon "white supremacy" legislation in South Africa where the Ghett act is in force, and in Rhodesia and East Africa where similar color bars exist.

Things are already happening in Australia. In Melbourne university students met and condemned the action of Arthur Caldwell, immigration minister, in departing and threatening to deport non-white citizens. The Evening Standard here wrote:

"Resolutions held that such action was incosistent with friendly relations with neighboring countries and asked the government to alter its policy and make amends for the wrong already done.

"The students asked for assurances that married couples would never be separated and that people who have lived in Australia for a long time would have the right to remain."

The reconsideration of the race question by the United Nations Committee on Human rights in its proposed bill for human rights should be made now. A clause similar to the 1yth amendment to the U. S. constitution should be incorporated into this bill.

If the UN is to merit the confidence and support of the world's peoples, at least 90 percent of whom are colored or colored sympathizers, it must pass a human right bill that covers everybody.

# Supreme Court Voids Restrictive Covenants

By Rob F. Hall

WASHINGTON, May 3.—The Supreme Court today dealt a serious blow to real estate agreements which bar Negroes from all-white neighborhoods. By a six to nothing vote, the court ruled that neither State nor Federal courts may enforce such discriminatory agreements. However, the decision failed to outlaw voluntary agreements between buyers and sellers of real estate to restrict certain neighborhoods to white residents. But it warned that a party to such an agreement cannot turn to the courts to force the other party to comply.

Despite this loophole, the decision was regarded here as a milestone in the fight for the rights of the Negro people, who have been especially victimized by these so-called restrictive covenants.

Charles Houston, Negro attorney, who represented petitioners in two of the cases before the court, said the decision was "a vindication of democracy." He was interviewed by the Daily Worker at the U. S. District Court, where he was busy, as one of the defense lawyers, in the trial of screenwriter Dalton Trumbo, charged with contempt of Congress.

### EDGERTON'S OPINION

It was in the Court of Appeals that the brilliant dissenting opinion of Justice Henry Edgerton attracted national attention to the issue.

**"Suits like these, and the Ghetto system they enforce, are among our conspicuous failures to live togteher in peace," he said.**

The Supreme Court rested its decision on the Civil Rights Act of 1866, which provides that "all citizens of the U.S. shall have the same right in every state and territory, as is enjoyed by white citizens thereof to inherit, purchase lease, sell, hold and convey rea and personal property."

After citing this law, the decisior said:

**"That Negro petitioners have been denied that right by virtue of the action of the Federal courts of the District of Columbia is clear . . . solely because of their race and color, they are confronted with orders of court divesting their titles in the properties and ordering that the premises be vacated."**

In the St. Louis and Detroit cases the Court relied on the 14th Amendment to the U.S. Constitution.

The decision was written by Chief Justice Vinson, with Justices Black, Frankfurter, Douglas, Murphy and Burton concurring. Three justices, Jackson, Reed and Rutledge, took no part in the decision, reportedly because they own property in restricted areas.

The cases before the court included two originating in the District of Columbia, one in Detroit and one in St. Louis.

In the Washington cases, Raphael G. Urciola, a white, sold two houses he owned to James M. and Mary I. Hurd and to Robert H. Rowe. A white resident in the block, Frederick E. Hodge, asked the U.S. District Court to set the sales aside and evict the Negro families.

The District Court granted Hodge's demand and issued the order. Houston carried the appeal to the U.S. Court of Appeals where in May, 1947, the justices by a two

agreements are effectuated by voluntary adherence to their terms, it would appear clear that there has been no action by the State and the provisions of the amendment have not been violated."

## *Beginning of the End*

Dear Editor:

In our elation at the recent 6-0 Supreme Court decision virtually outlawing restrictive covenants, we should not fail to remember that only one judge in the lower courts had the courage and wisdom to dissent on this question.

The masterly dissenting opinion in the District of Columbia case of Justice Henry W. Edgerton of the United States Court of Appeals was the forerunner and laid the ground work for the final decision by the Big Court.

*New York* E. M.

* * *

It is about time that a definite ruling has been handed down on the living restrictions that exist in our land.

It would be a good policy if all papers accepting classified ads in relation to real estate, should make sure that the organization is not one that has a restricted policy.

With all the papers not accepting the advertisements of said companies it would eventually defeat the "restricted" policy. No advertising is no business.

*New York* VAN KARDISCH

## Reaction To Ruling Widespread

(By Pittsburgh Courier Press Service)

WASHINGTON — Widespread public reaction to the history-making decision of the U. S. Supreme Court outlawing restrictive housing covenants based on race, indicates a definite opinion that the neighborhood complexion picture will not change suddenly, but that the passing of time will bring a positive change in the present structure.

At the same time obvious efforts were being undertaken to circumvent the effect of the Supreme Court ruling, as those who favored and supported restrictive agreements sought various methods to sidetrack the new situation. Simultaneously, liberals hailed the decision as presaging a new era.

Thurman L. Dodson, president of the National Bar Association, said here last week that the decision was "a notable achievement in the Negro's perennial struggle to eradicate his second-class citizenship."

### ENCOURAGING STEP

Rabbi Stephen S. Wise, head of the American Jewish Congress, said in New York City, that it knocked the props out from under the ghetto system. Saul Mills, secretary-treasurer of the CIO Council called it an encouraging step forward in the long fight against Negroes and other minorities "to live where they wish."

"It destroys one more prop on which advocates of race supremacy have been leaning," said Mr. Mills.

### DETROITERS GIVE THANKS

Cheered by the verdict, Mrs. Orsel McGhee, wife of the Detroit citizen who filed the first suit which reached the Supreme Court, said: "We thank God that there are such men who put principles before cheap politics." During the four years the McGhee family has lived in its disputed home there has been no violence, but she said she had been subjected to some "cursing" and embarrassment from her neighbors.

In Chicago, a mass eviction order against several tenants was halted by a U. S. Court suit, while another restrictive covenant suit was being entered against four residents in another section of Chicago.

### WHITE CHICAGOANS FIGHT

Embattled Chicago backers of restrictive covenants were planning to follow the pattern set several months ago by the Oakland-Kenwood Property Owners Association, and which seems to be a pattern which may be followed generally throughout the Nation.

It is a "community club" plan, commonly called "a community conservation agreement," and prescribes certain regulations governing standard requirements for persons moving into the neighborhood.

Alternatives have been divided into several categories.

### DIABOLICAL SCHEME

Lem Graves Jr., Washington correspondent for The Courier revealed this week that one of the most diabolical schemes to defeat the Supreme Court ruling was aired over a Washington radio station last week.

**According to Mr. Graves, a radio commentator, reporting on the decision, quoted some highly inflammatory suggestions to the effect that Negroes would now be physically chased out of neighborhoods by violence directed at their homes and at themselves. It was suggested that window panes be broken and that efforts be made to frighten and intimidate Negroes by threats of violence.**

Other schemes suggested include: (1) Property "clubs" in which homeowners form an organization with by-laws for the purpose of controlling the property of its members; (2) covenants that would automatically release the agreeing parties when one party broke the covenant; (3) covenants requiring that subscribers put up a bond which is forfeited by a homeowner when he sells in violation of the covenant, (4) the collusion of finance agencies to refuse to lend money to Negroes for home buying in areas where covenants operate.

# Dusty Files Reveal High Court Outlawed Housing Bans in '17

By TREZZVANT W. ANDERSON
(Courier Staff Correspondent)

Boy, dust off those files down in the Archives Building on Constitution Avenue in Washington, D. C. and bring out that unanimous decision of the United States Supreme Court in 1917 outlawing municipal and State ordinances enforcing racial segregation in residential areas. They violate the Fourteenth Amendment, said the court.

The decision was rendered in the case of Buchanan v. Warley, 245 U. S. 60, originating in Louisville, Ky., in 1914, and the emphatic decision of the justices of the Nation's highest tribunal was read by Justice Day three years later.

In that case a white man sold a Negro a lot on which to build a home. On May 11, 1914, the City of Louisville approved an ordinance which forbade Negroes from occupying houses in blocks where the residents are predominantly white. This lot was in such a block. In the block were eight white families and seven Negro families. Therefore, the Negro could not build his home.

The Negro refused to complete his contract to pay for the lot and suit was brought. The Kentucky courts held that the ordinance was valid, and an appeal was taken to the U. S. Supreme Court.

The syllabus of the decision of the Supreme Court said plainly:

"A city ordinance forbidding colored persons from occupying houses as residences, or places of abode or public assembly, on blocks where the majority of the houses are occupied by white persons for those purposes, and in the manner forbidding white persons when conditions of occupancy are reversed, and which denies the interdiction on 'color and nothing more,' passes the legitimate bounds of police power and invades the civil right to acquire, enjoy and use property, which is guaranteed in equal measure to all citizens, white or colored, by the Fourteenth Amendment."

Continuing to evaluate the possible results of racial mixing in property areas on the basis of the legal grounds advanced by supporters of restrictive measures, the court said further:

"Such a prohibition cannot be sustained upon the grounds that, through race segregation, it serves to diminish miscegenation and promote the public peace by averting race hostility and conflict, or that it prevents deterioration in the value of property owned and occupied by white people; nor does the fact that upon its face it applies impartially to both races relieve it from the vice of discrimination or obviate the objection that it deprives of property without due process of law. 165 Kentucky 559, reversed."

That was clear and to the point. Now in 1948 faced with four restrictive covenant cases for a decision, upon the basis of which the entire residential pattern of this country rests, the Supreme Court in 1917 took under consideration one very important phase of the problem, which should undoubtedly be again considered in 1948.

That was the "alienation of property. Justice Day in stating the Court's opinion in 1917 in no uncertain language said:

"We think this attempt to prevent the alienation of the property in question to a person of color was not a legitimate exercise of the police power of the State, and is in direct violation of the fundamental law enacted in the Fourteenth Amendment."

Immediately after that far-reaching decision thirty-one years ago, similar ordinances passed in Baltimore, Md.; Atlanta, Ga., and other Southern cities, while not taken to the Supreme Court, accepted the Court's views and were voided.

The alienation of property, whether by State or individual action, would to all intents and purposes of that Supreme Court decision come within the purview of the Fourteenth Amendment. As the Court stated then:

"The Constitution is the supreme law of the land. The Fourteenth Amendment protects life, liberty, and property from invasion by the States without due process of law. Property is more than the mere thing which the persons owns. It is elementary that it includes the right to acquire, use and dispose of it. The Constitution protects these essential attributes of property."

It is highly probable that the decision of the Supreme Court in the present cases under study will hinge upon the alienability of property, due to the fact that in 1926 the Court sustained a Washington, D. C. case, on the grounds that covenants had the legal force of contracts.

Whether these contracts invade the legality of a man to buy, own and occupy property in accordance with the 1917 decision in the Louisville case will be known when the Court makes known its decision in the four cases now under advisement. But, the 1917 decision was clear and emphatic.

## U.S. Supreme Court Covenant Ruling Stirs British Empire

By A. J. Siggins

LONDON — (ANP) — The recent U. S. Supreme Court ruling outlawing racial restrictive covenants is causing many repercussions in the British empire, especially here in Great Britain, in the Union of South Africa and Australia.

This decision spotlights South Africa, Britain and Australia as the only countries in the world in which the color bar is a legal principal enforced by state action. It may have far-reaching effects upon "white supremacy" legislation in South Africa where the Ghett act is in force, and in Rhodesia and East Africa where similar color bars exist.

Things are already happening in Australia. In Melbourne university students met and condemned the action of Arthur Caldwell, immigration minister, in departing and threatening to deport non-white citizens. The Evening Standard here wrote:

"Resolutions held that such action was incosistent with friendly relations with neighboring countries and asked the government to alter its policy and make amends for the wrong already done.

"The students asked for assurances that married couples would never be separated and that people who have lived in Australia for a long time would have the right to remain."

The reconsideration of the race question by the United Nations Committee on Human rights in its proposed bill for human rights should be made now. A clause similar to the 14th amendment to the U. S. constitution should be incorporated into this bill.

If the UN is to merit the confidence and support of the world's peoples, at least 90 percent of whom are colored or colored sympathizers, it must pass a human right bill that covers everybody.

# Freedom to Buy, Live Anywhere Upheld

## Supreme Court Ruling Had Been Requested by Solicitor General

## ENTIRE NATION COVERED

## Property in St. Louis, Detroit, Washington Involved in 4 Cases

WASHINGTON

The U.S. Supreme Court on Monday, by a unanimous decision of 6 to 0, reaffirmed President Truman's requested Fifth Freedom—the right of each man to live anywhere in this country he wishes.

By their unanimous vote, the six Supreme Court justices who heard debate on four covenant cases in January ruled that it is illegal to deny to any person the right to own or occupy property solely because of his color, religion or national origin.

The epoch-making decision, which had been requested by the Government, speaking through Solicitor General Philip B. Perlman, was handed down by the following six men: Chief Justice Fred M. Vinson, Justices Hugo Black, Frank Murphy, William O. Douglas, Harold O. Burton and Felix Frankfurter.

Two opinions were written by Chief Justice Vinson, both upholding the rights of colored property owners. One dealt with State court cases and the other with Federal court cases.

Restrictive agreements in themselves, the opinion stated, were not ruled invalid, so long as they are voluntarily adhered to. Court enforcement, however, is invalid and this is the crux of the whole matter since it has been the courts which have granted injunctions barring ownership and/or occupancy by colored citizens.

The other three members of the country's highest tribunal had disqualified themselves. They were Justices Robert H. Jackson of New York, Stanley F. Reed of Kentucky and Wiley B. Rutledge of Iowa.

**Believed Involved in Covenants**

Although they did not give their reasons for their actions, it was known that Justices Rutledge and Jackson live in homes covered by restrictive covenants. All three had at some time or another been involved in covenant cases.

Two of the four cases involved property in the District of Columbia, the third, housing in St. Louis, and the fourth, property in Detroit.

**Truman Acts**

The legal resources of the Truman Administration were thrown behind the move to break down residential segregation in an unprecedented manner.

First, Attorney General Tom Clark put out a 123-page brief which began with:

"President Truman's address last June at the Lincoln Memorial in which he said we must make the Federal Gov-

rnment a friendly, vigilant defender of the rights and equities of all Americans . . .

"Our National Government must show the way";

And ended with this:

"Restricted areas could be expanded through covenants until whole groups of citizens selected by race or color or creed or ancestry could be excluded from this nation forever.

"This Court has pointed out that the Constitution does not speak of freedom of contract, 'It speaks of liberty and prohibits deprivation of liberty without due process of law."

### Had Truman's Okay

The Attorney General never would have entered this case without the express and direct approval of President Truman.

Mr. Clark sent his newly appointed Solicitor General with a 6,000-word oral argument to deliver in person before the Court.

At the outset of the arguments on Jan. 15, Solicitor General Perlman said that "racial restrictive covenants should be relegated to the limbo of other things as dead as slavery."

In a 23-page argument, which took a full hour for delivery, Mr. Perlman declared:

"The Caucasians are under a heavy debt to colored Americans. We brought them here as slaves, as chattels devoid of human rights, privileges and immunities.

"We set them free, promising them, in our amended Constitution and new laws, equal rights and privileges with all other people. Yet after three-quarters of a century, attempts are made, by such devices as restrictive covenants, to hold them in bondage, to segregate them ,to hem them in so that they cannot escape from the evil conditions under which so many of them are compelled to live.

### Government of Laws

"They have been told, time and again, by this Court, that this is a Government of laws and not of men, and that all men are equal before the law (Traux v. Corrigan, 257 U.S. 312, 332). They wait—millions of them — outside this courtroom door, to learn whether these great maxims really apply to them."

In a book of essays, recently published, there is one by a Cornell University educator on the subject of "Race Discrimination under the Constitution."

In that essay there occurs a statement that "our promissory note to the colored man held out a great deal more than he has received in hand. He has been cheated at many a turn. But no statute of limitations has yet outlawed the note he holds. He will yet collect what is his: in place of the word magic he will receive tangible goods."

### Should End Word Magic

The Government submits that there should be an end to this word magic under which the colored man and other racial groups are denied the fundamental and necessary right to buy and occupy homes; and denied complete equality before the law in this and other respects.

"Racial restrictive covenants on real property should no longer be enforced by any part of the judicial system of our country. They should be relegated to the limbo of other things as dead as slavery. We ask that the decrees here involved be reversed."

One of the main attorneys for the plaintiffs who took their cases to the Supreme Court as a last resort, Charles H. Houston, of Washington, representing petitioners in the two D.C. cases, declared:

"Judicial enforcement of covenants is plainly incompatible with reasons why the United States fought in the war and inconsistent with the national and international policy against racism.

### Civil Rights at Issue

"We are not dealing with social rights but with civil rights in this case," Mr. Houston emphasized.

Earlier, James W. Crooks, white attorney, representing the Bryant St. covenant holders in the two District cases, had told the court that racial restrictive covenants are thoroughly in line with District Court and Court of Appeals decisions and supported by public opinion.

He loudly proclaimed that "Congress has done nothing to alter the public policy and that there is no legislation contradictory to segregation in Washington."

Henry Gilligan, white, former member of the District School Board, who preceded his associate, Mr. Crooks, argues:

"These people agreed on covenants not because of race hatred, but because of a desire to live among people of their own choosing."

### Hit All Minorities

In opening the argument in the District cases, which involve 20 homes in the 100 block of Bryant St., N.W., which were covered by covenant to run perpetually, Mr. Houston and Phineas Indritz, an Interior Department attorney, emphasized that covenants are aimed at minority groups.

Mr. Houston emphasized that no friction between the racial groups had been noted on Bryant St., although 11 colored families had lived in one half of the block for 20 years, and insisted that restrictive covenants were based solely on the question of color.

Mr. Houston contended that covenants violated the due process of law clause under the Fifth Amendment, which provides that no person shall be deprived of life, liberty and property without due process, and that the spread of covenants, in effect, is indirect legislation.

Thurgood Marshall of NYC, chief of the NAACP national legal staff, emphasized that the 14th Amendment cannot give sanction to a contract based solely on race or color.

He described the covenants as contracts made for the purpose of enforcement by the State, and that they have effective value only if State supported or with State aid.

### Argument Opened Thursday

In the Jan. 15 session, during which the St. Louis and Detroit cases were argued, George L. Vaughn and Herman Willer, white, represented the anti-covenant group, while Gerald L. Seegers, white, argued for the respondents in the St. Louis case, and Mr. Marshall and Mr. Miller debated the Detroit case on one side with Messrs. Gilligan and Crooks handling the respondents' cause.

Mr. Vaughn, making an emotional appeal, declared that covenants victimized colored people to the extent of virtual "involuntary servitude," while Mr. Willer asserted that the State judiciary has no legal right to enforce a contract that was invalid constitutionally and which the legislative body could not make.

They represented Mr. and Mrs. J. D. Shelley, who were prevented from taking possession of a St. Louis home they had purchased.

Mr. Seegers, speaking for the respondents in the St. Louis case, complained that opponents of the covenants had raised issues of social and economic abuses which had no direct bearing on the specific points of law involved in the enforcement of the covenants.

### Murphy Interrupts

He said the 14th Amendment did not apply to an individual and was interrupted by Justice Murphy who asked him if he had ever heard of an opinion by Associate Justice Bushrod Washington, a relative of George Washington, who sat on the bench over a century ago. Mr. Seegers replied that he was unfamiliar with the case and Justice Murphy failed to elaborate on the question.

The Washington opinion, given in 1823, involved the right of citizens to take and hold property.

Mr. Marshall said that at best covenants were "mere agreements between neighbors and not valid contracts and that enforcement of such agreements by the courts was in violation of civil rights.

As now constituted, covenants are far more effective and destructive than legislative ordinances involving segregation because the latter may be repealed at the next session, but covenants are permitted to run for years, Mr. Marshall observed.

### Gilligan Speaks

Mr. Gilligan, opening the respondents' argument in the Detroit case, bitterly assailed the Government's intervention in the cases, attacking particularly their views on social and economic questions which, he stated, were not raised in the lower courts and had no place in the Supreme Court debate.

Mr. Crooks took exception to Mr. Marshall's statement, saying that the only reason the petitioner was in court was that he is colored, and declared that the "only reason they are deprived of their property is because they bought property with restrictions on it."

Justice Murphy asked, "What were the restrictions?"

Mr. Crooks replied: "The property right I have been talking about," and, "What was the right?" Justice Murphy queried. Mr. Crooks answered, "To be a member of the Caucasian race."

Covenants are nationwide and affect all minorities.

### What a Covenant Is

A restrictive covenant is "an agreement under which owners of real estate promise to exclude people of certain races or religions from residing in a specified area."

These agreements are then recorded among the land records, so as to give notice to subsequent purchasers.

In some instances the restrictions are perpetual, and in others they run long periods of time.

**Covenants are directed chiefly against colored people, but also against Jews, Chinese, Japanese, Mexicans, Filipinos, Hawaiins, Indians and Puerto Ricans**

The AFRO in previous issues indicated that this is one of the best prepared cases ever to come before the Supreme Court.

First, it was plotted by 70 of the best legal minds in the country, who met last year in New York to outline strategy.

### Lawyers' Rehearsal

Next, it had support of eminent lawyers who came to Washington for a dress rehearsal before the case was actually argued.

Third, 23 important organizations, including the Unitarian Church, the Congregational Christian Churches, the Protestant Council of New York (Methodist and Episcopal Churches seemed absent), the Elks, the CIO, the AFL the American Jewish Congress and the Indian League filed printed statements (briefs) with the Court declaring they wanted it possible for all citizens to buy homes in any place where they could afford to and then live in them.

## Restrictive Covenants

The United States Supreme Court, in a unanimous decision Monday, knocked the props from under the unfair and undemocratic restrictive covenants which for nearly 35 years, have operated to deny to Negroes, Jews and other American minorities equal access to choice property in residential areas. In an important sense, the decision promises to end restricted communities and ghettos and slums.

But in another sense, the decision fails to end all of the tribulations, heartaches and headaches from which these groups suffer carte blanc. For individual property owners, chiefly whites, can continue to refuse, by common agreement and conspiracy to sell to Negroes, Jews and others who may be deemed undesirable by white neighbors.

For this 6 to 0 decision Negroes and Jews, and we believe all Americans who believe in justice and fairplay, are under many obligations to the fairminded justices who saw neither color nor favoritism, but democracy as the guiding principle upon which to operate. It means that upwards of 10 million or more homes scattered throughout the length and breadth of America, once protected by these unfair covenants, are now stripped of their deceit and may henceforth be available to these groups like all others. And strangely enough, New York City, supposedly the melting pot of all America, has more than her share of these covenanted homes and apartments. including her outlying subdivisions. Worse still, trends and events in new housing over the nation that the courts had the brass to sanction for the Advancement of Colored People, found it necessary to take, not one, but four, cities to the highest court. And in the words of the editors of P. M. Newspaper: "The decision is significant in many important respects. The principal decision was written by Chief Justice Vinson —born and bred in Kentucky. Six lawyers argued the several cases before the high court. Four of them were Negroes. This is democracy alive."

We rejoice in the decision and we congratulate the National Association for the Advancement of Colored People for one more victory in the endless chain which is being chalked up by its staff of lawyers.

# The Supreme Court Has The Last Word

The Democratic party of South Carolina and the South Carolina politicians, who are the spokesmen for it, are at the end of their effort to keep one jump ahead of the supreme court of the United States.

The futile contest began years ago when the supreme court handed down its first decision on the question of Negro voting, reversing its previous decisions in which it had held that the federal government had no concern in primary elections.

When the Texas decision was handed down in 1944 South Carolina convened its General Assembly in special session to abolish all primary laws, so as to divorce the primary from all state control, ignoring the not too gentle hint in the decision that should any state find a way around the opinion the court, in its turn, would find a way to bring that state under the constitution.

It wasn't necessary for the supreme court to carry out its threat. The United States district court in South Carolina made the new law for it and held that Negroes were entitled to vote in South Carolina's Democratic primary and the circuit court of appeals upheld the decision.

The supreme court did not write an opinion in the case—and in some ways this is regretable; both of the lower court decisions are something less than closely reasoned opinions since these lower courts were bound to respect previous decisions of the supreme court which did not actually support the conclusions reached by them. The supreme court simply announced yesterday that it would not review the circuit court's decision, which therefore stands.

The decisions of the circuit court of appeals and of the supreme court were inevitable. They could have been and were foreseen. The Record predicted the final decision immediately after the special session and advised the Democratic party to use the time it had purchased by repealing the primary statutes for the purpose of working out some reasonable plan to allow the Negroes to vote. Nothing, of course, was done.

When the circuit court of appeals upheld the Waring decision The Record urged upon the General Assembly of South Carolina, meeting in regular session, to enact new primary laws to govern the primary, applying the general election qualifications to primary elections in anticipation of the supreme court's decision, which has now come. These necessary acts, it pointed out, could be ratified on the last day of the session and could have been held by the Governor until the decision was handed down when they might have been signed and made law. But this advice was also ignored.

Now the General Assembly, if it is to do anything, must be recalled for another special session.

And this is, in some ways at least, unfortunate. The special session will be devoted to this one problem and will attempt to reach a decision in an atmosphere of haste, hysteria and passion, none of them the ingredients of sober thinking which is the state's real need.

If possible, of course, this kind of thing, reminiscent of the 1944 special session, should be avoided. The average white citizen of South Carolina is much less perturbed by the decision than the politicians. He expected the supreme court to decide as it has decided and many of the white citizens of South Carolina are persuaded that the Democratic party would have been wiser to have followed the advice of Wade Hampton and long ago taken steps to admit qualified Negroes to the Democratic primary and party. Hampton's advice wasn't followed simply because the politicians who controlled the party and the legislature had a vested interest in maintaining the status quo, even if they put the state in an indefensible position. Now they cannot continue to ignore it. The supreme court has caught up with them.

And if the General Assembly of South Carolina measures up to its responsibilities it will not be at all the tragedy that the politicians make it out to be—except, of course, for some of the politicians.

## Negroes And Primaries

**The Supreme Court of the United States, in holding unconstitutional a South Carolina plan by which the Democratic Party could be operated as a private club, with Negroes barred, has declared in effect that nowhere in the South can qualified Negroes be prevented because of their color from voting in Democratic primary elections. No device for keeping qualified Negroes from casting effective votes will be tolerated. Thus the plain spirit and intent of the constitution are unequivocally upheld.**

# The White Primary Is Dead

The United States Supreme Court has refused to hear the appeal from the Democratic Party of South Carolina, which appeal was made from a decision by an all-Southern U. S. Circuit Court of Appeals giving Negroes the right to vote in the Democratic primary. South Carolina had removed all statutes relating to the primary from the code and sought to prove the party a voluntary association.

The Atlanta Constitution long before was arguing that this was patently a subterfuge and that no court will accept a subterfuge which seeks to avoid, and void, a former ruling. This newspaper sought to prevent the white primary fight in this State, as being moot and harmful to the future. We argued for qualification laws.

Now it finally is settled. The white primary is dead. It cannot be revived. We urge that everyone understand that fact. The qualified Negro is going to vote. Let the party go ahead with qualification laws which will meet the court test. Let us not make the mistake of setting up qualifications which will not stand up in law. Had we done so long ago we would have avoided much bitterness and many now on the voting lists would not be there.

B. De Mille from the AFL Federation of Radio Artists. De Mille was suspended because he refused to pay a $1 political assessment in 1944 for a purpose of which he did not approve. When he was suspended, De Mille was forced to give up a weekly radio program. He argued that his right of free speech and right to work were violated.

¶ Upheld the right of the Government to take over most of the prewar interests in this country of I. G. Farbenindustrie, the big German chemical combine. The Farben interests in question were seized during the war by the Alien Property Custodian. The Standard Oil Co. (N. J.) and other companies argued that the properties belonged to them and were not subject to seizure.

¶ Refused to interfere with the suspension of movie producer Cecil B. De Mille from the AFL Federation of Radio Artists. De Mille was suspended because he refused to pay a $1 political assessment in 1944 for a purpose of which he did not approve. When he was suspended, De Mille was forced to give up a weekly radio program. He argued that his right of free speech and right to work were violated.

¶ Upheld the right of the Government to take over most of the prewar interests in this country of I. G. Farbenindustrie, the big German chemical combine. The Farben interests in question were seized during the war by the Alien Property Custodian. The Standard Oil Co. (N. J.) and other companies argued that the properties belonged to them and were not subject to seizure.

¶ Agreed to decide whether the 1938 Food and Drug Act can be used to prohibit the sending of "misleading" pamphlets through the mails which are divorced from the products they describe. The Act prohibits misleading labeling on a product itself or in "accompanying" literature.

¶ Agreed to decide whether Washington, D. C. police violated the Constitutional rights of two numbers racket suspects by peering over a boardinghouse transom at them in search of evidence. A lower court has ruled that the conduct of the officers was "ungentlemanly" but not unconstitutional.

# High Court Rules Negroes May Vote in S. Carolina Primaries

By United Press

WASHINGTON

The Supreme Court held that Negroes may vote in South Carolina Democratic primaries despite a 1944 State law permitting the party to limit primary voting to its "white primary" law which allowed the Democratic Party to "white Democrats."

The court declined to hear an appeal by a group of South Carolina Democrats from two lower court decisions affirming the primary voting rights of South Carolina Negroes.

There was no written opinion. The justices merely noted their refusal to hear the appeal. This left in effect the lower decisions which held that when a South Carolina Negro voter challenged this interpretation, both the Federal District Court at Columbia, S. C., and the Federal Court of Appeals at Richmond, Va., upheld him.

*Other Actions*

In other actions, the Court:

¶ Reaffirmed, over the vigorous objections of Justice Robert A. Jackson, a 1946 precedent that in dividing up the assets of a bankrupt firm, U. S. employment compensation claims must be paid in full before State compensation claims are considered. Jackson said he believed the court was wrong in 1946 and therefore he could see no reason why he should go ahead and be wrong again.

# The Supreme Court Has The Last Word

The Democratic party of South Carolina and the South Carolina politicians, who are the spokesmen for it, are at the end of their effort to keep one jump ahead of the supreme court of the United States.

The futile contest began years ago when the supreme court handed down its first decision on the question of Negro voting, reversing its previous decisions in which it had held that the federal government had no concern in primary elections.

When the Texas decision was handed down in 1944 South Carolina convened its General Assembly in special session to abolish all primary laws, so as to divorce the primary from all state control, ignoring the not too gentle hint in the decision that should any state find a way around the opinion the court, in its turn, would find a way to bring that state under the constitution.

It wasn't necessary for the supreme court to carry out its threat. The United States district court in South Carolina made the new law for it and held that Negroes were entitled to vote in South Carolina's Democratic primary and the circuit court of appeals upheld the decision.

The supreme court did not write an opinion in the case—and in some ways this is regretable; both of the lower court decisions are something less than closely reasoned opinions since these lower courts were bound to respect previous decisions of the supreme court which did not actually support the conclusions reached by them. The supreme court simply announced yesterday that it would not review the circuit court's decision, which therefore stands. 4-20-48

The decisions of the circuit court of appeals and of the supreme court were inevitable. They could have been and were foreseen. The Record predicted the final decision immediately after the special session and advised the Democratic party to use the time it had purchased by repealing the primary statutes for the purpose of working out some reasonable plan to allow the Negroes to vote. Nothing, of course, was done. Columbia, S. C.

When the circuit court of appeals upheld the Waring decision The Record urged upon the General Assembly of South Carolina, meeting in regular session, to enact new primary laws to govern the primary, applying the general election qualifications to primary elections in anticipation of the supreme court's decision, which has now come. These necessary acts, it pointed out, could be ratified on the last day of the session and could have been held by the Governor until the decision was handed down when they might have been signed and made law. But this advice was also ignored.

Now the General Assembly, if it is to do anything, must be recalled for another special session. The Record

And this is, in some ways at least, unfortunate. The special session will be devoted to this one problem and will attempt to reach a decision in an atmosphere of haste, hysteria and passion, none of them the ingredients of sober thinking which is the state's real need. Tues. 4-20-48

If possible, of course, this kind of thing, reminiscent of the 1944 special session, should be avoided. The average white citizen of South Carolina is much less perturbed by the decision than the politicians. He expected the supreme court to decide as it has decided and many of the white citizens of South Carolina are persuaded that the Democratic party would have been wiser to have followed the advice of Wade Hampton and long ago taken steps to admit qualified Negroes to the Democratic primary and party. Hampton's advice wasn't followed simply because the politicians who controlled the party and the legislature had a vested interest in maintaining the status quo, even if they put the state in an indefensible position. Now they cannot continue to ignore it. The supreme court has caught up with them. Columbia, S.C.

And if the General Assembly of South Carolina measures up to its responsibilities it will not be at all the tragedy that the politicians make it out to be—except, of course, for some of the politicians.

## Negroes And Primaries

The Supreme Court of the United States, in holding unconstitutional a South Carolina plan by which the Democratic Party could be operated as a private club, with Negroes barred, has declared in effect that nowhere in the South can qualified Negroes be prevented because of their color from voting in Democratic primary elections. No device for keeping qualified Negroes from casting effective votes will be tolerated. Thus the plain spirit and intent of the constitution are unequivocally upheld. Wed. 4-21-48

# The White Primary Is Dead

The Constitution

The United States Supreme Court ha. refused to hear the appeal from the Democratic Party of South Carolina, which appeal was made from a decision by an all-Southern U. S. Circuit Court of Appeals giving Negroes the right to vote in the Democratic primary. South Carolina had removed all statutes relating to the primary from the code and sought to prove the party a voluntary association. Tues. 4-20-48

The Atlanta Constitution long before was arguing that this was patently a subterfuge and that no court will accept a subterfuge which seeks to avoid, and void, a former ruling. This newspaper sought to prevent the white primary fight in this State, as being moot and harmful to the future. We argued for qualification laws. Atlanta, Ga.

Now it finally is settled. The white primary is dead. It cannot be revived. We urge that everyone understand that fact. The qualified Negro is going to vote. Let the party go ahead with qualification laws which will meet the court test. Let us not make the mistake of setting up qualifications which will not stand up in law. Had we done so long ago we would have avoided much bitterness and many now on the voting lists would not be there. Tues 4-20-48

# High Court Rules Negroes May Vote in S. Carolina Primaries

By United Press

WASHINGTON The Supreme Court held that Negroes may vote in South Carolina Democratic primaries despite a 1944 State law permitting the party to limit primary voting to "white Democrats."

The justices merely noted their refusal to hear the appeal. This left in effect the lower decisions in which both the Federal District Court at Columbia, S. C., and the Federal Court of Appeals at Richmond, Va., upheld him.

There was no written opinion. In 1944, South Carolina passed its "white primary" law which allowed the Democratic Party to limit primary voting to white Democrats. The Democrats contended their party was a private association free to make its own rules without Federal or State interference.

But when a South Carolina Negro voter challenged this interpretation, both the Federal District Court at Columbia, S. C., and the Federal Court of Appeals at Richmond, Va., upheld him.

Tues, 4-20-48

*Other Actions*

In other actions, the Court:

¶Reaffirmed, over the vigorous objections of Justice Robert A. Jackson, a 1946 precedent that in dividing up the assets of a bankrupt firm, U. S. employment compensation claims must be paid in full before State compensation claims are considered. Jackson said he believed the court was wrong in 1946 and therefore he could see no reason why he should go ahead and be wrong again.

¶Refused to interfere with the suspension of movie producer Cecil B. De Mille from the AFL Federation of Radio Artists. De Mille was suspended because he refused to pay a $1 political assessment in 1944 for a purpose of which he did not approve. When he was suspended, De Mille was forced to give up a weekly radio program. He argued that his right of free speech and right to work were violated.

¶Upheld the right of the Government to take over most of the prewar interests in this country of I. G. Farbenindustrie, the big German chemical combine. The Farben interests in question were seized during the war by the Alien Property Custodian. The Standard Oil Co. (N. J.) and other companies argued that the properties belonged to them and were not subject to seizure. 4-20-48

¶Agreed to decide whether the Constitutional rights of two numbers racket suspects by peering over a boardinghouse transom at them in search of evidence. A lower court has ruled that the conduct of the officers was "ungentlemanly" but not unconstitutional.

¶Agreed to decide whether the "misleading" pamphlets through the mails which are divorced from the products they describe. The Act prohibits misleading labeling on a product itself or in "accompanying" literature.

# NEGRO VOTE STANDS IN SOUTH CAROLINA

## Highest Court Refuses Review of Democratic Party's Plea for 'Private Club' Status

Special to THE NEW YORK TIMES.

WASHINGTON, April 12—The South Carolina plan to keep Negroes from voting in the Democratic primaries by declaring the party a "private club" was dealt a death blow by the Supreme Court today.

In a formal order the highest tribunal refused to review lower-court rulings which had held the new election machinery illegal. This refusal left in effect the finding of the Fourth Circuit Court of Appeals at Richmond which sustained last December a decision made by a Federal District Court in Charleston in July, 1947.

The appeal rejected by the Supreme Court was made about five weeks ago by Democratic officials of Richland County, who argued that the party in their state was a "private voluntary association of individuals mutually acceptable to each other which can exercise unrestricted choice of membership."

Southerners were vitally concerned by the Supreme Court action, which is expected to have wide repercussions. There were reports that the South Carolinians would ask reconsideration of the denial and, if defeated, would attempt to devise some other schemes to force an all-white primary.

The South Carolina program was created after the Supreme Court held in April, 1944, that Texas laws could not bar Negroes from participation in the Democratic primary. The South Carolina Governor immediately called a special session of the Legislature and recommended that all the state laws relating to primaries be wiped off the books.

This was done, said the Circuit Court at Richmond, "with the avowed purpose of preventing voting by Negroes in the Democratic primaries." Thereafter the "private club" system was set up, but Judge John J. Parker, speaking for the Circuit Court, ruled against it.

### "Sophistry" Seen by Jurist

Judge Parker held that no election machinery could be legal if its purpose was to deny the Negro, because of his race or color, "an effective voice in the Government of his country or the state or the community in which he lives."

The Parker opinion upheld that of Federal Judge J. Waties Waring in the District Court in the previous July. It was, Judge Waring asserted, "pure sophistry" to find "any material difference" in the "governance" of the Democratic party in South Carolina before and after the private club plan.

# Columbia Negroes Cast First Primary Votes For City Fathers

The U. S. Supreme Court Monday (April 19) wrote the final obituary of the "white" primary and handed the ballot to the 815,000 Negroes in South Carolina whose case the high court acted on, but simultaneously, outlawed voting denials against all other Negroes in the country.

The court refused to issue a writ of certiorari or, allow attorneys for Richland county Democratics to present appeal arguments from an adverse decision of the U. S. Fourth Circuit Court at Richmond which, approving the July 12, 1947 verdict of District Court Judge J. Waties Waring of Charleston, held Negroes eligible to vote in primaries.

**FIRST VOTES CAST**

By coincidence, the decision came just in time for Columbia Negroes who registered to vote in the city general election on May 11. At the close of a special meeting of city Democratic officials with state chairman Wm. P. Baskin, the latter announced he had requested of the former that any Negro holding a city certificate (pink) who came to vote in Tuesday's municipal primary be permitted to do so.

When polls opened Tuesday morning, those holding the city papers began to filter into polling places. All night before they had been told by radio spot announcements they could vote.

First person to vote in ward three was John H. McCray, state Progressive Democratic chairman, who presented his certificate at 8:03 a. m., and had voted by 8:07. He cast ballot number nine at the precinct.

At 8:07, James M. Hinton, state NAACP president, presented his certificate at ward nine's polling place, followed in order by J. C. Artemus, state PDP treasurer and "Pete" Ingram, state supervisor for the Pilgrim Insurance company. Mr. Hinton's ballot number "34," with "35" and "36" being the respective numbers of Messrs. Artemus and Ingram. One other Negro had voted at the ward but shortly after noon reports began coming in of increasing numbers of race voters. One woman who observed at ward nine reported she had counted 10 persons who had voted in a 20 minute period.

**700 QUALIFIED**

Some 700 Negroes had qualified for the May 11 election, in which two council members are to be chosen and for whom nominations were being voted Tuesday.

However, the court ruling caught a number of persons like the Biblical account of the "Foolish Virgins." They had just delayed putting off qualifying for the municipal election as they had bee nurged to do and spent most of the day rushing to the Richland county courthouse to qualify and then vote. The city registration board, in session until May 3, reported it had done a rushing business, mostly Negroes, who kept a steady stream going.

There was no indication by Tuesday night of the size of the Negro vote in the first primary held after the high court's ruling, but estimates are that close to 1,000 were qualified to vote in the city election. The only drawback was for some men who hadn't even paid poll taxes.

**REV. ADAMS CAUGHT**

Among those caught not ready by the decision was reported the Rev. E. A. Adams who, according to this report, qualified only Tuesday morning. Rev. Adams is president of the Citizens Committee which was associated in the court fight against the primary and, which had urged citizens to register for the city municipal election.

**HISTORY OF CASE**

The court fight against the primary actually started in 1942 when some $3,500 was raised for this purpose and the Citizens Committee created. The South Carolina repeal of primary statutes in 1944, however, stymied lawyers until last summer law students at Columbia University came up with an answer which the NAACP used as spearhead of its court attack.

The case, brought by George A. Elmore, then Richland country secretary of Progressive Democrats, was handled in court by attorney Harold R. Boulware of Columbia and attorney Thurgood Marshall, chief of the NAACP's national legal staff. Arrayed against them was a nine-man battery of South Carolina's best constitutional lawyers.

## The White Primary Goes Out

The U. S. Supreme Court's refusal to hear arguments from South Carolina white Democrats who had appealed a Fourth Circuit Court decree upholding U. S. District Court Judge J. Waites Waring who last July ruled against the South Carolina party, puts an end to "white only" Democrats in this country. And all other political groups modeled on race for that matter.

The high court's ruling on Monday went further than it itself had gone in the historic Smith vs. Allwright case from Texas back in 1944. This time, it had before it a device concocted to get around that decision and clothed in holy cloth. It had before it the argument of the "private club" and the absence of statutes controlling primaries. It had before it the blazen threat of former Governor Olin D. Johnson to commit violence if "white supremacy" was not recognized under 1944 primary repeals of statutes.

On the other hand, it had also this statement from Judge Waring: "The skies will not fall" if Negroes vote in South Carolina primaries"; it had the advice, "Now is the time for South Carolina to join the Union." It had the clear picture of a deliberate effort to flaunt even its own orders. It acted; it caused "The chips to fall"—not where they "may" as the former governor declared,—but to "fall as democracy."

So, on the record and in the law books the white primary, the white party are both dead ducks. They have gone. The next step is to make certain that the victory was not half a loaf, an empty one. To be certain feverish efforts will be made to deny this new privilege to as large a number of Negroes as possible. The success of this effort will depend on the inclination of Negroes to tolerate or reject it. If they allow half-membership, and none at all they will be softening and tempering the very court decisions they have fought so hard to win.

The clarion call against the primary, back even in 1944 when Progressive Democrats dramatized the issue by bringing white and colored citizens together in their common organization, was "all or none." And this, henceforth, is the watchword. No membership in the party is complete without all the rights attending that membership. Only through such a stand can the court's ruling be made practical. Only in this fashion can it be said that "government of all people by the few of one people" has perished from the earth."

12d 1948

Southern Cases

# Constitutional Rights Of Men Investigated

Daily World
Atlanta, Ga
Thurs
12d
4-8-48

## Executions Stayed Pending Final Disposition

WASHINGTON, D. C.—(NNPA)—The United States Supreme Court last Monday agreed to review two cases involving the Constitutional rights of men convicted of criminal charges and under sentence of death in Southern States.

Daily World

In one case it granted the petition of Gaither (Red) Lovelady, who was convicted of the fatal shooting of John Brewer, white, city marshal in Lexington, Lee County, Texas, but limited the review to the question of the constitutionality of the grand jury—one of three questions raised in the petition.

Atlanta, Ga.

The court ordered that execution of the death sentence imposed on Gaither be stayed pending its final disposition of the case.

In the other case the court decided to review the conviction of Samuel Taylor, an ignorant youth, who was convicted in the Circuit Court of Mobile County, Alabama, November 19, 1946, on an alleged extorted confession.

**NO TESTIMONY**

Lovelady contends that he was denied the right to testify at his trial and that he di d ntoh....I trial and that he did not have "effective assistance" of counsel; that the indictment was returned against him by a grand jury composed entirely of white men and selected as the result of systematic exclusion of colored persons from grand jury service in Lee County, Texas, and that the trial jury was composed of only eleven qualified jurors because one of them had been adjudged insane.

At the time Lovelady shot and killed Brewer, the city marshal had arrested him for drunkeness and was attempting to put him in jail. At his trial, his counsel put him on the witness stand but did not question him concerning what occurred at the time of the killing nor did they permit him to offer any explanation in either justification or mitigation of the killing.

Thurs.

After his conviction had been affirmed by the Texas Court of Criminal Appeals, Lovelady filed in that court a petition for a writ of habeas corpus, which was denied.

4-8-48

At the hearing on the writ, E. T. Simmang, a special prosecutor in the case, testified that Lovelady was badly represented at his trial and his counsel were incompetent and grossly negligent in failing to introduce important evidence. He said Lovelady's leading counsel was a newspaper editor and not a lawyer.

Lovelady testified at the habeas corpus hearing that Brewer had come up to him and told him he was going to put him in the "calaboose." He said he pleaded with Brewer not to do it, and Brewer told him that when he got him in the "Calaboose," he, Brewer, was going to "bust" his head.

**BOTH HELD GUN**

When he got to jail, Lovelady testified, Brewer hit him twice over the head with his pistol. The two men scuffled and in the scuffle the pistol went off. Lovelady claimed both he and Brewer had hold of the pistol at the time the fatal shot was fired.

Evidence also was introduced at the habeas corpus hearing showing the systematic exclusion of colored persons from grand jury service in Lee County, Texas.

# The Evasive Supreme Court

The Worker

ONCE AGAIN, the Supreme Court has sidestepped a vital issue concerning civil liberty. 6-27-48

This time, it is in the case of the CIO challenging a clause in the Taft-Hartley law which forbids unions to back political candidates. The Court, of course, threw this out. But, in doing so, it carefully refrained from anything that would weaken the main T-H clause which compels unions to certify that they have no Communists in their leadership. This clause which permits the employers to invade the unions, to dictate their personnel and policies, to split them into factions, was left completely intact. The right of the unions to decide their own internal affairs was not protected by the Court. New York, N.Y.

Similarly, in the case of the 11 anti-fascists headed by Dr. Edward Barsky and Howard Fast, the Court refused to hear their appeal from the ruling of "contempt" which the Rankin-Thomas Un-American Committee slapped on them, resulting in prison sentences and fines. The Court sidestepped the issue of whether such a Committee, prying into the political beliefs of witnesses, is constitutional.

Also, in the case of the anti-Negro real estate covenants, the Supreme Court ruled that such landlord agreements keeping Negro buyers out of certain neighborhools cannot be enforced by local courts. But the Court sidestepped the legality of such anti-Negro covenants by refusing to say that they violated the rights of Negro citizens. Thus, anti-Negro contracts are given legal existence which the Jimcrow signers can enforce themselves without being in danger of lawsuits. Sun.

In short, the Supreme Court's opinions leave intact the powers of the Un-American Committee, the Taft-Hartley invasion of the unions, and the anti-Negro covenants. 6-27-48

The fight for civil liberties will have to depend upon the plain people far more than upon judges who aid the tories by deliberately evasive opinions.

## Record of the Nine

The Times

The United States Supreme Court last Monday handed down eight decisions—in the closing session of the term. Then the justices filed out of the courtroom to start the summer recess. (Justice William O. Douglas had left Washington two weeks earlier for his summer camp in the mountains of Washington State.)

During the eight-month term the court disposed of more than 1,100 cases. Of these 555 were refusals to review lower court rulings, 400 were pleas from prisoners who wanted to get out of jail, 217 were cases argued before and decided by the Supreme Court. Only twenty-six of the argued cases were decided unanimously. Justice Douglas wrote the largest number of individual dissents—thirty-one out of 270. New York, N.Y.

In its most publicized decisions the court did these things: Sun.

(1) Ruled that "restrictive covenants" in real estate sales directed against Negroes or other groups cannot be enforced by Federal or State courts. 6-27-48

(2) Held that religious instruction during school hours in public schools buildings was unconstitutional.

(3) Decided that a Negro woman, Mrs. Ada Lois Sipuel Fisher, was entitled to a legal education to be provided by the State of Oklahoma equal to that given at the University of Oklahoma Law School, which she had vainly tried to enter.

(4) Outlawed the South Carolina plan to prevent Negroes from voting in the Democratic primary by making party membership selective, like that of a private club.

(5) Held Federal rent controls constitutional.

(6) Held that the CIO did not violate the Labor-Management Relations (Taft-Hartley) Act of 1947 by publishing a newspaper editorial which endorsed a political candidate. The Times

Throughout the term there were frequent evidences of the split between the "conservative" and "liberal" segments of the court. For the most part, Chief Justice Fred M. Vinson and Associate Justices Felix Frankfurter, Robert H. Jackson and Harold H. Burton stood together as "conservatives." Associate Justices Douglas, Hugo L. Black, Frank Murphy and Wiley Rutledge took the "liberal" viewpoint. Justice Stanley Reed frequently held the balance of power. New York, N.Y. 6-27-48

# Here's Voting Record of the Supreme Court

## Analysis Shows High Court Backs Constitutional Rights

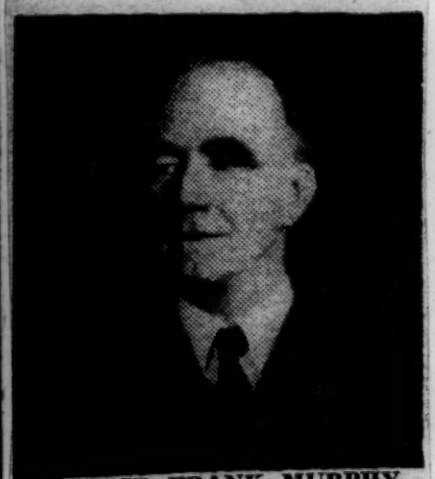
• • by J. L. HICKS

AN ANALYSIS of the votes of the justices of the United States Supreme Court in nine decisions involving racial issues handed down during its recent term gives Justice Frank Murphy of Michigan the highest "liberal rating."

It also shows a marked trend on the part of the court favorable to the expansion of Constitutional guarantees of equality although in several cases the prevailing opinion of the court placed the favorable result on narrow grounds.

A box score rating system compiled by the law and social action division of the American Jewish Congress provides the "grade" of each justice in the voting on the nine decisions.

Under the plan a justice's vote in each case is rated as (1) FB or favorable to the expansion of constitutional guarantees of equality on "broad grounds" (2) FN, or favorable on "narrow grounds," and (3) U. or "unfavorable."



JUSTICE FRANK MURPHY
*"Has highest liberal rating."*

### Nine "Test" Cases

The nine cases used as a "test" were Patton vs. Mississippi, Oyama vs. California, Sipuel vs. Board of Regents, Bob Lo Excursion Company vs. Michigan, Fisher vs. Hurst, McCollum vs. Board of Education, Shelley vs. Draemer and Sipes vs. McGhee, Hurd vs. Hodge and Urciolo vs. Hodge. Minority groups lost only one of the nine cases.

In the Patton case the court held that in determining whether colored people were excluded from jury duty the courts must consider long term practice.

In the Oyama case, the court ruled the presumptive provisions of California's Alien Land Law adverse to the citizen son of an alien was unconstitutional.

In the Sipuel case it held that a State must provide equal education for colored students as soon as it does for white applicants. In the Bob Lo case it ruled that a State's equal rights law constitutionally applied to excursion boats between Michigan and Canada.

In the Fisher case (a continuation of the Sipuel fight) it held that its mandate in the Sipuel case had not been violated by a degree setting up a jim crow law school.

The McCollum case found the court holding that the released time plan of religious education in public schools is unconstitutional. The Sipes vs. McGhee and the Hurd vs. Hodge cases involved the now celebrated restrictive covenant decisions. The Takahashi decision declared invalid a law which barred commercial fishing licenses.

### Best Voting Record

The AJC rating system shows that despite the accepted liberalism of Justice William O. Douglas, Justice Murphy had the best voting record of all so far as minority groups were concerned. He voted favorably in all nine of the cases with six of his votes being classed as FB, favorable on broad grounds, and three being counted as FN, favorable on narrow grounds.

The nearest approach to the perfect score turned in by Justice Murphy is the identical record made by Justices Hugo L. Black of Alabama and Justice Douglas and that set by Justice Wiley Rutledge.

Justices Douglas and Black voted "favorably on broad grounds" in six of the nine cases and favorable on narrow grounds in two others, but unlike Murphy they both voted against the NAACP in the Fisher case.

Justice Rutledge had a perfect "favorable" score on the seven cases in which he participated but he, like Justices Stanley Reed of Kentucky and Robert H. Jackson of New York, stepped down off the bench when the two restrictive covenant cases were called.

Five of Justice Rutledge's votes were counted as "favorable on broad grounds" by the AJC and the other two were regarded as favorable on narrow grounds.

### Poorest Records

The poorest records on the court insofar as the nine cases are concerned, were set by Justices Jackson and Reed. They not only stepped down and refused to sit on the covenant cases but in the seven cases which they did hear they voted unfavorably on four of them, favored two on narrow grounds, and only one on broad grounds.

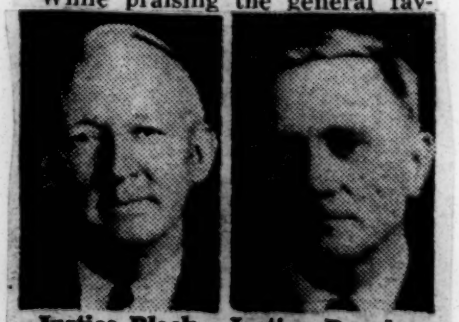
Justice Harold H. Burton of Ohio also had a fair record. Sitting on nine of the cases he voted favorably on broad grounds on four, favorably on narrow grounds on three, and unfavorably on two. Chief Justice Vinson's record was the same as that of Burton.

The overall box score for the entire court in the nine cases, as compiled by the AJC showed 36 favorable votes cast on broad grounds, 24 favorable on narrow grounds and 15 directly unfavorable.

While praising the general favorable trend of the court the AJC said litigation over the Oklahoma Law School in the Sipuel-Fisher case must be regarded as "a clear setback in the effort to establish in law what the President's Committee on Civil Rights has already found as a fact, that the existence of 'separate but equal' facilities is a myth."

*"Stepped down."*

Justice Rutledge Justice Burton
*They get "fair."*



Justice Black Justice Douglas
*"Six Out of 9."*

Justice Reed Justice Jackson